

Official Gazette



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THE OFFICIAL MONTH IN REVIEW

June 1.—**I**N THE morning, the President inducted into office the members of the San Luis project committee and told them they have to succeed completely in the reclamation project in San Luis, Pampanga. San Luis, the hometown of Luis Taruc, is the site of full-scale reclamation efforts now going on under the supervision of the President's committee headed by Dean Conrado Benitez.

Eulogio Mencias of Pangasinan was also inducted by the President as judge-at-large. The President said he appointed Mencias because of his honesty and long experience as a practicing lawyer. Present at the induction were Sen. Cipriano Primicias, Mrs. Mencias, and relatives of the new judge.

The President also inducted into office the newly elected officers of the Philippine Veterans Legion, namely, Johnny San Juan, president; Francisco Ofemaria, vice president; Herminio Francisco, headquarters service officer; Melencio Ola Orbase; and others.

A delegation from Cagayan headed by Rep. Felipe Garduque called on the President to ask for the expropriation of lands belonging to *hacenderos* in Cagayan for distribution to the present occupants. They also requested the President to place the idle lands in Cagayan under the supervision of the NARRA in order to make the province self-sufficient in rice.

Other morning callers were Rep. Florencio Moreno of Romblon; Govs. Decoroso Rosales of Leyte, Manuel L. Solidum of Romblon, and Juan Alberto of Catanduanes; Mayor Jose Rono of Calbayog City; and Dr. B. M. Gancy.

The President signed House Bill No. 30 to become Republic Act No. 984, abolishing the position of assistant provincial fiscal in the province of Antique, repealing for the purpose the 26th sub-paragraph of the first paragraph of section 1674 of the Administrative Code as amended.

In the afternoon, the President launched the Thrift Year campaign at simple rites held at the Malacañang ceremonial hall. In attendance were the Bankers Association of the Philippines, sponsors of the thrift campaign, and banking officials and leading businessmen of the community. One of the features of the ceremony was the selling of P50,000 worth of rehabilitation and development bonds by Central Bank Gov. Miguel Cuaderno to Alfonso Calalang, president of the Bankers Association of the Philippines and of the Security Bank and Trust Company.

In his speech delivered at 5 p.m., the President said that the government's program of economic development is essentially a program of self-help, and that it is only through "increased savings on our part that we can make possible substantial increase in our domestic capital investment." He said there are many things that have to be done in achieving the administration's program of improving the condition of the masses. Of these, he said, "perhaps the most important is capital." He said the "Thrift Year has been proclaimed to remind ourselves that one of the greatest obstacles to capital formation in this country is the lack of thrift among our people." He pointed out the fact that "for a poor and under-developed country like ours, whose present wealth consists merely of its potentials, we have been spending too much and saving too little. Austerity is one thing that we, as a people, have not put into practice sufficiently." (See *Historical Papers and Documents*, pp. 2429-2430, for the full text of the President's speech.)

A few minutes later in the afternoon, the President delivered another speech at the same place, this time launching the 1954 annual fund campaign of the Community Chest of Greater Manila. The President appealed to all

EXECUTIVE ORDERS, PROCLAMATIONS AND ADMINISTRATIVE ORDERS

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 39

ADJUSTING THE INITIAL CLASSIFICATIONS OF
THE NEWLY CREATED MUNICIPALITIES OF
MANUKAN, PROVINCE OF ZAMBOANGA DEL
NORTE, AND DINAS AND MALANGAS, BOTH OF
THE PROVINCE OF ZAMBOANGA DEL SUR

Upon the recommendations of the General Auditing Office and the Department of Finance, and by virtue of the authority vested in me by law, the following municipalities are hereby given the initial classifications indicated hereunder, effective as of the date they began to exist, the same to continue until said municipalities are reclassified pursuant to the provisions of Section 5 of Republic Act No. 554:

ZAMBOANGA DEL NORTE

Municipality	Class
Manukan	Third

ZAMBOANGA DEL SUR

Dinas	Third
Malangas	Third

Executive Order No. 583, dated April 4, 1953, insofar as it refers to the above named municipalities is hereby amended accordingly.

Done in the City of Manila, this 28th day of May, in the year of our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 40

CREATING A COMMITTEE TO IMPLEMENT THE
EXECUTION OF THE FISHERIES ACT FOR PUR-
POSES OF SUPPRESSING DYNAMITE FISHING

WHEREAS, fish is basically an essential food of our people and, therefore, the Government should strive to preserve the fish resources of our country;

WHEREAS, dynamite fishing is decidedly destructive of the fish resources of our waters and is prohibited under the provisions of section 12 of Act No. 4003, otherwise known as "Fisheries Act" and penalized under section 76 thereof;

WHEREAS, it has been noted that big scale dynamite fishing invariably involves the use of boats licensed as "fish carriers";

WHEREAS, the existing regulations governing the issuance of "fish carrier" license do not require the owners of boats applying therefor to present proof of the legitimate source of the fish stock they expect to load therein;

WHEREAS, many owners of boats now licensed as "fish carriers" are believed without legitimate sources of the stock of fish usually loaded in their boats and such boats are publicly known to be used in connection with dynamite fishing;

WHEREAS, a conscious and thorough screening of the present licenses of boats operated as "fish carrier" is expected to reveal those who have legitimate sources of stock of fish and the amount of such stock to justify their continued enjoyment of the privilege of such licenses, as well as those who do not have such resources and, therefore, should not continue to enjoy said privilege; and

WHEREAS, the withdrawal or revocation of the licenses of boats plying as "fish carriers," if the owners thereof cannot prove the existence of the legitimate source of the fish stock they load in their boats, will have withdrawn from operation the potential instruments of dynamite fishing;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by law, do hereby order:

1. There is hereby created a Screening Committee composed of one representative from each of the Departments of Agriculture and Natural Resources, Finance and National Defense, to be

designated by the respective Secretaries thereof within ten days from the date of this Executive Order.

2. The said Committee shall immediately proceed to screen all persons who operate boats licensed as "fish carriers" and require them to present evidence to prove the legitimate source of their fish supply and the monthly output thereof.

3. The Committee shall submit a written report of its findings and recommendations to the Secretary of Agriculture and Natural Resources, accompanied by the evidence presented in each case.

4. On the basis of the findings and recommendations of the Committee, the Secretary of Agriculture and Natural Resources shall decide whether or not to withdraw or revoke the license for "fish carrier" in each case, and his decision in the premises shall be final.

5. The Committee shall submit a proposed set of rules and regulations governing the issuance of "fish carrier" license for the guidance of the Secretary of Agriculture and Natural Resources in the promulgation of rules and regulations governing the issuance of "fish carrier" license in the future in the exercise of his authority under Section 4 of the "Fisheries Act".

Done in the City of Manila, this 14th day of June, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY

President of the Philippines

By the President:

FRED RUIZ CASTRO

Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 41

CREATING A COMMITTEE TO COORDINATE AND
DELIVER ESSENTIAL SERVICES OF THE GOV-
ERNMENT AND CIVIC ORGANIZATIONS TO
FARM FAMILIES IN NEW-DEVELOPMENT AGRI-
CULTURAL AREAS

For the purpose of coordinating the development and implementation of a program to direct government and citizen services towards helping families in new agricultural areas with agricultural production, soil and forest conservation, health, credit, home industries, labor, education, social welfare, legal assistance and other essential services, a Committee is hereby created, composed of the following:

The Undersecretary of Agriculture and Natural Resources	Chairman
The Undersecretary of Justice	Member
The Undersecretary of Public Works and Communications	Member
The Undersecretary of Health	Member
The Undersecretary of Labor	Member
A representative of the Social Welfare Administrator	Member
The Administrator, Agricultural Credit and Co-operative Financing Administration	Member
The Director of Public Schools	Member
Mr. Hilarion Pilapil, Home Industries, Price Stabilization Corporation	Member
Mr. Eugenio Puyat, Rotary	Member
Mr. Amelito Mutuc, NAMFREL and Jaycees	Member
Mr. Mariano V. del Rosario, Lions	Member
Mrs. Concepcion Henares, National Federation of Women's Clubs	Member
Mr. Frisco F. San Juan, Philippine Veterans Legion	Member
Dr. Feliciano R. Cruz, Philippine National Red Cross	Member

The Committee is empowered to call upon any department, bureau, office, agency, or instrumentality of the Government for such assistance or information as it may require in the performance of its functions.

The Committee shall render periodic reports of its activities and accomplishments to the President of the Philippines.

This order shall take effect immediately.

Done in the City of Manila, this 25th day of June, in the year of our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

EXECUTIVE ORDER No. 42

CREATING A COMMITTEE TO SCREEN AND AID
DESERVING SQUATTERS AND NEW SETTLERS
IN DAVAO PROVINCE

For the purpose of screening the squatters and would-be settlers in Davao Province to determine who are deserving

of assistance in the allocation of lots in subdivisions of the Bureau of Lands, a committee is hereby created composed of the following:

1. Mr. Jesus Occeña NAMFREL
2. Mr. Amado Munda Davao Lions
3. Mr. Artemio Loyola Davao Press Club
4. Mrs. Mary P. Doromal Davao Matrons
5. Dr. Bienvenido Escoto Davao Rotary Club
6. Mr. Ramon Zosa Jaycees
7. Mrs. Naty Obosa Davao Women's Club
6. Mr. Ramon Zosa Philippine Veterans Legion

The Committee shall assist in the allocation of public lands to landless people. For this purpose, it shall make a census of squatters in the province and a census of new settlers who have not been able to locate lands for their occupation. It shall also keep an up-to-date list of available public lands in the different parts of the province. To facilitate the allocation of lots to deserving squatters and new settlers, the District Land Officer of Davao shall give preference to persons recommended by the Committee.

The Committee may call upon any agency of the government for assistance in the accomplishment of its mission and shall render periodic reports of its activities to the President of the Philippines.

This order shall take effect immediately.

Done in the City of Manila, this 25th day of June, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY

President of the Philippines

By the President:

FRED RUIZ CASTRO

Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 32

DECLARING THE THIRD WEEK OF NOVEMBER OF
EVERY YEAR AS SAFETY AND ACCIDENT
PREVENTION WEEK

WHEREAS, in this period of rehabilitation it is imperative that we preserve our manpower and conserve our material wealth;

WHEREAS, the progressive industrialization of our country has increased hazards in workplaces with the consequent rise of accident frequency;

WHEREAS, accidents entail not only heavy financial losses that adversely affect the economic stability of the country but also untold human sufferings and tragedies that cause dislocation in our social life;

WHEREAS, to minimize such sufferings and losses, it is necessary that steps be taken towards making the people safety-conscious;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, do hereby proclaim the third week of November of every year as Safety and Accident Prevention Week and designate the Department of Labor to take charge of, and coordinate, all activities in celebration of said Week. Public and private schools, public and private industrial and commercial establishments, government and private offices, and labor unions are hereby enjoined to observe the Week in an appropriate manner with a view to disseminating safety consciousness and propagating the gospel of the Green Cross throughout the country.

Proclamation No. 309 dated April 1, 1952, is hereby revoked.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 28th day of May, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

[SEAL]

RAMON MAGSAYSAY

President of the Philippines

By the President:

FRED RUIZ CASTRO

Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 33

REVOKING PROCLAMATION NO. 13, DATED APRIL 6, 1954, SO AS TO RESTORE THE STANDARD TIME.

By virtue of the powers vested in me by law, I, Ramon Magsaysay, President of the Philippines, do hereby revoke

Proclamation No. 13, dated April 6, 1954, establishing the daylight saving time for the Philippines during the summer season of 1954, and direct that at twelve o'clock midnight of June 4, 1954, the time fixed in the said proclamation shall be set back or retarded one hour so as to return to normal standard time.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 3rd day of June, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

[SEAL]

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 34

RESERVING FOR MARKET SITE PURPOSES A
CERTAIN PARCEL OF THE PUBLIC DOMAIN
SITUATED IN THE BARRIO OF MAPANG,
MUNICIPALITY OF RIZAL, PROVINCE OF ZAM-
BOANGA DEL NORTE, ISLAND OF MINDANAO

Upon the recommendation of the Secretary of Agriculture and Natural Resources and pursuant to the provisions of section 83 of Commonwealth Act No. 141, as amended, I hereby withdraw from sale or settlement and reserve for market site purposes under the administration of the municipality of Rizal, subject to private rights, if any there be, a certain parcel of the public domain situated in the barrio of Mapang, municipality of Rizal, Province of Zamboanga del Norte, Island of Mindanao, and more particularly described in the Bureau of Lands plan MR-1052, to wit:

Mr-1052 (Municipal Government of Rizal)—(Market Site)

A parcel of land (as shown on plan Mr-1052), situated in the barrio of Mapang, municipality of Rizal, Province of Zamboanga del Norte. Bounded on the NE., by lot 385 of Rizal Pls-100; on the SE., by lot 385 of Rizal Pls-100; on the SW., national highway; and on the NW., by lot 385 of Rizal Pls-100. Beginning

at a point marked 1 on plan, being S. 47° 56' W., 1,557.86 meters from triangulation station Maniway, Pls-100; thence N. 67° 55' W., 121.50 meters to point 2; thence N. 27° 21' E., 83.94 meters to point 3; thence S. 68° 01' E., 120.05 meters to point 4; thence S. 26° 20' W., 84.04 meters to the point of beginning; containing an area of 10,108 square meters, more or less. All points referred to are indicated on the plan and are marked on the ground by P. L. S. cylindrical concrete monuments; bearings true; declination 1° 27' E., date of survey, January 29, 1952 and that of the approval, January 4, 1954.

NOTE.—This is lot 19 of Rizal Pls-100.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 14th day of June, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

[SEAL]

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 35

REVOKING PROCLAMATION NO. 24, SERIES OF 1923, AND DECLARING OPEN TO DISPOSITION UNDER THE PROVISIONS OF THE PUBLIC LAND LAW THE PARCEL OR PARCELS OF LAND COVERED THEREBY SITUATED IN THE MUNICIPALITIES OF CALAUAG AND GUINAYANGAN, PROVINCE OF QUEZON, ISLAND OF LUZON

Upon the recommendation of the Secretary of Agriculture and Natural Resources and pursuant to the provision of section 88 of Commonwealth Act No. 141, as amended, I hereby revoke Proclamation No. 24, series of 1923, and declare the parcel or parcels of land covered thereby open to disposition under the provisions of the same Act.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 14th day of June, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

[SEAL]

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

PROCLAMATION No. 36

DECLARING SATURDAY, JUNE 19, 1954, AS A
SPECIAL PUBLIC HOLIDAY

In order to enable our people to celebrate the birthday of our greatest national hero and patriot, Dr. Jose Rizal, with appropriate ceremonies in keeping with his ideals, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers vested in me by section 30 of the Revised Administrative Code, do hereby declare Saturday, June 19, 1954, as a special public holiday throughout the Philippines.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

Done in the City of Manila, this 17th day of June, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

[SEAL]

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 30

CREATING A COMMITTEE TO CONDUCT AN IN-
QUIRY INTO THE ACTIVITIES AND TRANSAC-

TIONS OF THE VILLANUEVA STEAMSHIP COMPANY

There is hereby created a Committee to conduct an inquiry into the activities and transactions of the Villanueva Steamship Company, Inc. which are allegedly contrary to existing laws and public policy, composed of the following:

- | | |
|--------------------------------------|----------|
| 1. Commodore Jose M. Francisco | Chairman |
| 2. Mr. Felix Q. Antonio | Member |
| 3. Mr. Octavio Posadas | Member |
| 4. Mr. Emiliano Tanchico | Member |
| 5. Mr. Bernardo Abrera | Member |

The Committee is hereby granted all the powers of an investigating committee under sections 71 and 580 of the Revised Administrative Code, including the power to summon witnesses, administer oaths, and take testimony or evidence relevant to the investigation. It is also authorized to call upon any department, bureau, office, agency or instrumentality of the Government for such assistance or information as it may require in the performance of its functions, and for this purpose, it shall have access to, and the right to examine, any books, documents, papers or records thereof.

This Committee shall submit its report and recommendations within the shortest time possible.

Done in the City of Manila, this 28th day of May, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY

President of the Philippines

By the President:

FRED RUIZ CASTRO

Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 31

AUTHORIZING THE COSMOPOLITAN INSURANCE
COMPANY, INC. TO BECOME A SURETY UPON
OFFICIAL RECOGNIZANCES, STIPULATIONS,
BONDS AND UNDERTAKINGS

WHEREAS, section 1 of Act No. 536, as amended by Act No. 2206, provides that whenever any recognizance, stipu-

lation, bond or undertaking conditioned for the faithful performance of any duty or of any contract made with any public authority, national, provincial, municipal, or otherwise, or of any undertaking, or for the doing or refraining from doing anything in such recognizance, stipulation, bond or undertaking specified, is, by the laws of the Philippines or by the regulations or resolutions of any public authority therein, required or permitted to be given with one surety or with two or more sureties, the execution of the same or the guaranteeing of the performance of the condition thereof shall be sufficient when executed or guaranteed solely by any corporation organized under the laws of the Philippines, having power to guarantee the fidelity of persons holding positions of public or private trust and to execute and guarantee bonds or undertakings in judicial proceedings and to agree to the faithful performances of any contract or undertaking made with any public authority;

WHEREAS, said section further provides that no head of department, court, judge, officer, board, or body executive, legislative or judicial shall approve or accept any corporation as surety on any recognizance, stipulation, bond, contract, or undertaking, unless such corporation has been authorized to do business in the Philippines in the manner provided by the provisions of said Act No. 536, as amended, nor unless such corporation has by contract with the Government of the Philippines been authorized to become a surety upon official recognizances, stipulations, bonds, and undertakings; and

WHEREAS, the Cosmopolitan Insurance Company, Inc. is a domestic corporation organized and existing under the laws of the Republic of the Philippines and fulfills the conditions prescribed by said Act No. 536, as amended;

NOW, THEREFORE, I, Ramon Magsaysay, President of the Philippines, by virtue of the powers in me vested by law, do hereby authorize the Cosmopolitan Insurance Company, Inc. to become a surety upon official recognizances, stipulations, bonds and undertakings in such manner and under such conditions as are provided by law, except that the total amount of immigration bonds that it may issue shall not, at any time, exceed its admitted assets.

Done in the City of Manila, this 28th day of May, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 32

REQUIRING ALL OFFICIALS CONCERNED TO TAKE
APPROPRIATE MEASURES TO FACILITATE
THE ENTRY AND DEPARTURE OF TOURISTS
AND PROSPECTIVE FOREIGN INVESTORS

In pursuance of and to help carry out more effectively the announced policy of the Government of promoting tourism and inviting foreign investments in productive enterprises in the Philippines, the heads of the various executive departments, bureaus and offices concerned are hereby directed to take immediate steps, consistent with existing laws, to amend, modify or implement, as the case may be, the regulations presently enforced by their respective offices with a view to eliminating unnecessary restrictions and cumbersome requirements governing the entry, stay and departure of non-immigrants described in sections 9(a) and 9(g) of the Immigration Act of 1940, as amended, including special quota immigrants who were admitted under article VI(b) of the Executive Agreement entered into between the Philippines and the United States on July 4, 1946.

Specifically, the officials concerned are directed, with regard to the aforementioned classes of aliens desiring entry into the Philippines:

(1) To simplify and, if possible, to consolidate the prescribed (a) visa, (b) customs, and (c) foreign exchange application forms, as well as the procedures being observed for the issuance thereof;

(2) To dispense with the requirement for visa applicants to present police clearance and evidence of financial support as well as to appear personally at the Philippine consular office in which their applications for entry are pending consideration, except in cases which clearly warrant compliance with said requirement;

(3) To observe a more rigid selection and training of the personnel in the various Philippine foreign service establishments abroad assigned to receive and process visa applications with a view to insuring stricter compliance with existing Foreign Service rules and regulations designed to secure greater efficiency and courtesy in the performance of their work.

For the same purpose, the officials concerned are likewise directed, with regard to the aforementioned classes of aliens departing from the Philippines:

1. To simplify immigration and tax clearance application forms and to expedite the processing and issuing thereof by having these

service performed by the officials and employees of the offices concerned at the premises of the Bureau of Immigration.

2. To dispense with the requirement for the presentation of foreign exchange and all security clearances, including those from the Manila Police Department and City Fiscal's Office, the National Intelligence Coordinating Agency; and

3. To facilitate the departure and reentry of applicants who were previously admitted as special quota immigrants or as prearranged employees and who were permitted to reside in the Philippines for a definite period of time by issuing to them return certificates, which may be valid for multiple entry in appropriate cases.

This Order shall not apply to aliens whose entry and residence are or may be restricted by regulation and policy.

All officials concerned are directed to report to the undersigned not later than June 5, 1954, the action taken by them to implement this Order.

Done in the City of Manila, this 4th day of June, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 33

CREATING A COMMITTEE TO LOOK INTO THE
CONDITIONS OF THE BUENAVISTA ESTATE IN
SAN ILDEFONSO, BULACAN

A Committee is hereby created to look into the conditions of the Buenavista Estate, including the legality of the disposition of the lots therein previously made in favor of the occupants thereof, with a view to the solution of the social problem involved. The Committee shall be composed of the following:

Atty. Manuel E. Castañeda	Chairman
Col. Climaco Pintoy	Member
Lt. Col. Eugenio Acab	Member

The Committee is authorized to call upon any department, bureau, office, agency or instrumentality of the Government for such assistance or information as it may require in the performance of its functions, and for this purpose, it shall have access to, and the right to examine, any books, documents, papers or records thereof.

The Committee shall submit its report and recommendations to the President of the Philippines within sixty days from the date hereof.

Done in the City of Manila, this 9th day of June, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 34

CREATING A COMMITTEE TO STUDY THE FEASIBILITY OF BARTERING CEMENT FROM JAPAN WITH LUMBER FROM THE PHILIPPINES

A Committee to study the feasibility of bartering cement from Japan with logs and/or lumber from the Philippines is hereby created composed of the following:

Hon. Guillermo R. Sanchez	Chairman
Hon. Antonio de las Alas	Member
Hon. Vicente Orosa	Member
Hon. Miguel Cuaderno	Member

The Committee is authorized to call upon any department, bureau, office, agency or instrumentality of the Government for such assistance or information as it may require in the performance of its functions, and for this purpose, it shall have access to, and the right to examine, any books, documents, papers or records thereof.

The Committee shall submit its report and recommendations to the President of the Philippines within the shortest time possible.

Done in the City of Manila, this 14th day of June, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 35

REMOVING MR. PEDRO B. PUGA FROM OFFICE AS
JUSTICE OF THE PEACE OF ZARRAGA AND
LUCENA, ILOILO

This is an administrative case against Justice of the Peace Pedro B. Puga of Zarraga and Lucena, Iloilo, who is charged with maladministration of justice and partiality in the performance of his official duties. The case was investigated by the District Judge who found the following facts duly established:

On May 17, 1952, a complaint for frustrated murder against Rodolfo Pinuela, Jovito Pinuela and Emilio Po was filed in respondent's court at Zarraga, with the complainant herein, Andresito C. Sotero, as the offended party (Criminal Case No. 153). The respondent fixed a bond of P2,000 for the provisional liberty of each of the accused.

The preliminary investigation was set for September 19, 1952, but on that date, instead of proceeding with the hearing, the respondent, seconded by Mayor Pinuela, of Zarraga, father of accused Rodolfo Pinuela, advised the offended party to agree to an amicable settlement of the case. However, the latter rejected the proposal, in view of which the hearing was postponed. The case was next set for hearing on October 31, 1952, but it was again postponed because of the non-appearance of defense counsel. After the offended party had left the courtroom, he was approached by the respondent who reminded him of the proposed amicable settlement and urged him to accept the offer to be paid a certain sum by way of indemnity. Again the offended party turned down the proposal.

When the case was called for the third time on November 14, 1952, the defense counsel asked for further postponement, but the respondent denied the petition obviously because by that time he had already been apprised of the present administrative complaint filed against him by Andresito C. Sotero. Thereafter the accused

waived their right to a preliminary investigation. As Sotero was leaving the municipal building, the respondent remarked to him: "Inasmuch as you do not like any amicable settlement, prepare your bond for you will be accused."

True enough, on that same day (November 14th), the chief of police of Zarraga filed an amended complaint in Criminal Case No. 155 for less serious physical injuries so as to include herein complainant Andresito C. Sotero and others among the accused. The original complaint in this case dated May 15, 1952, was filed against one Marcelo Sindol alone. The affidavit incriminating Sotero and others, which was made the basis of the amended complaint, was executed before Mayor Pinuela by Emilio Po, one of the co-accused of Rodolfo Pinuela (the mayor's son) in Criminal Case No. 153 but who was excluded therefrom on October 31, 1952.

On December 24, 1952, another criminal complaint was docketed by the respondent against Andresito C. Sotero (Criminal Case No. 172), the same having been subscribed by the supposed offended party, Rodolfo Pinuela, one of the accused in Criminal Case No. 153. The case was denominated "frustrated murder," although the allegations in the body of the complaint would at most constitute attempted murder. Respondent issued a warrant for Sotero's arrest on the same day the case was docketed and fixed his bond at P10,000. This amount was, however, reduced to P2,000 through the intervention of the Provincial Fiscal, who reminded the respondent that in Criminal Case No. 153 against Rodolfo Pinuela et al., also for frustrated murder, the respondent had required a bond of only P2,000 for each accused.

Although the complaint in Criminal Case No. 172 against Sotero appears to have been subscribed and sworn to before the respondent on May 24, 1952, it was actually docketed on December 24, 1952, as shown by the notation on the top thereof and by the fact that the case immediately preceding (Criminal Case No. 171) was docketed on December 21, 1952. According to respondent's recollection, the correct date when the complaint was subscribed before him was December 24 and not May 24, 1952. He attributed the discrepancy to a clerical error.

In summary, the investigator found the respondent guilty of the following:

"(1) Carelessness in the performance of his duties, specifically in dating the verification before him of the complaint in Criminal Case No. 172 (Exhibit 'C');

"(2) Undue and unwarranted delay in conducting the preliminary investigation in Criminal Case No. 153 filed before him by Andresito C. Sotero against Rodolfo Pinuela, and in remanding the case to the Court of First Instance;

"(3) Maladministration of justice and marked partiality as shown by his actuations in said Case No. 153, in insisting that the complainant agree to an amicable settlement inspite of the latter's refusal to do so, and in persecuting the said complainant as a result of such refusal, as shown by the fact that he was included as one of the accused in the amended complaint in Criminal Case No. 155, which amendment was made only after the present administrative charges had been filed. The complaint (Criminal Case No. 172) was captioned "Frustrated Murder," and an excessive amount of bail was fixed, although the offense alleged in the body of the complaint was only attempted murder. In contrast, in Criminal Case No. 153 against Rodolfo Pinuela for frustrated murder, the respondent fixed the bail at only P2,000. It seems that

the partiality shown by the respondent Judge in this case was motivated by the fact that the father of Rodolfo Pinuela, the defendant in Criminal Case No. 153, is the Municipal Mayor of Zarraga."

The above findings of the investigator are concurred in by the Secretary of Justice who recommends respondent's removal from office in view of the seriousness of the irregularities committed by him. On the strength of the findings of the investigator with which I also agree, I believe the respondent really deserves to be dismissed from the service. As observed by the Secretary of Justice, very few, if any, offenses more serious and more dangerous to litigants and the public can be committed by a judge than those perpetrated by the respondent in this case who, sworn to administer justice, not only refused to give justice but used his office to harass and persecute a complainant as a means of compelling him to withdraw charges apparently meritorious.

Wherefore, Mr. Pedro B. Puga is hereby removed from office as justice of the peace of Zarraga and Lucena, Iloilo, effective upon receipt of a copy of this order.

Done in the City of Manila, this 15th day of June, in the year of Our Lord, nineteen hundred fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY

President of the Philippines

By the President:

FRED RUIZ CASTRO

Executive Secretary

MALACAÑANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES
MANILA

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 36

CREATING A COMMITTEE TO STUDY WAYS AND
MEANS OF AMELIORATING THE CONDITION OF
PUBLIC SCHOOL TEACHERS AND THEIR FAMIL-
LIES

For the purpose of considering appropriate legislation calculated to improve and ameliorate the physical and social conditions of the public school teachers and members of their families, a Committee is hereby created, composed of the following:

The Secretary of Education	Chairman
The Secretary of Health	Member
The Secretary of Finance	Member

to study ways and means of affording to the public school teachers and members of their families the facilities of government hospitals, dental clinics, health centers and dispensaries in a manner that will enable them to receive, consistent with the limitations of the public treasury, free treatment therein and to send their children to public educational institutions without financial burdens on their part. The Committee shall also consider the possibility of tapping additional sources of public revenue that will make up for the outlay of funds to provide for the purposes herein contemplated.

The Committee shall submit its report as soon as practicable so that whatever measures it may recommend may be taken up for consideration during the next sessions of the Congress.

Done in the City of Manila, this 18th day of June, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY
President of the Philippines

By the President:

FRED RUIZ CASTRO
Executive Secretary

MALACANANG

RESIDENCE OF THE PRESIDENT
OF THE PHILIPPINES

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER No. 37

CREATING A COMMITTEE TO STUDY AND RECOMMEND IMPROVEMENTS OF THE LAW NATIONALIZING THE RETAIL TRADE

For the purpose of undertaking a thorough study of the law nationalizing the retail trade with a view to improving its supposed defects and imperfections and making it satisfactory to all concerned, a Committee is hereby created composed of the following:

The Secretary of Commerce and Industry	Chairman
The Secretary of Finance	Member
The Administrator of Economic Coordination	Member
The Secretary of Justice	Member

The Committee shall submit its report and recommendations to the President of the Philippines as soon as practicable.

Done in the City of Manila, this 19th day of June, in the year of Our Lord, nineteen hundred and fifty-four, and of the Independence of the Philippines, the eighth.

RAMON MAGSAYSAY

President of the Philippines

By the President:

FRED RUIZ CASTRO

Executive Secretary

REPUBLIC ACTS

H. No. 2053

[REPUBLIC ACT No. 983]

AN ACT AMENDING SECTION FOUR OF REPUBLIC ACT NUMBERED THREE HUNDRED NINE

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section four of Republic Act Numbered Three hundred nine is hereby amended to read as follows:

"SEC. 4. *Racing Days.*—Private individuals and entities duly licensed by the Commission on Races may hold horse races on Sundays not reserved under this Act, on twenty-four Saturdays as may be determined by the said Commission, and on legal holidays, except Thursday and Friday of Holy Week, July fourth, commonly known as Independence Day, and December thirtieth, commonly known as Rizal Day. The second Sunday and the first Saturday afternoon of each month shall be reserved for races held by the Philippine Anti-Tuberculosis Society. The fourth Sunday of February, April, June, August, October and the third Sunday of December shall be reserved for races held by the Philippine Charity Sweepstakes Office. The fourth Sunday of January, May, July, and September and the second Saturday afternoon of January, April, July, and October shall be reserved for races held by the White Cross, Inc. The fourth Sunday of March shall also be reserved for the national race, commonly known as the Grand Derby Race, held by the Philippine Anti-Tuberculosis Society. Other Saturday afternoons shall be reserved for races authorized by the President of the Philippines for charitable, relief or civic purposes. All racing days hereinabove listed and assigned to private individuals and entities duly licensed by the Games and Amusements Board shall be apportioned and distributed equally each year among existing racing clubs or race tracks duly authorized to conduct horse races: *Provided, however,* That the charitable institutions concerned shall receive an amount-guarantee from the Philippine Racing Club, Inc., or the Manila Jockey Club, Inc., where the races may be held, based on the average income received by the said charitable institutions from the Manila Jockey Club, Inc., for a period of twelve months immediately preceding the races to be held, and that this amount-guarantee shall be deposited in cash or certified check by the corresponding racing club with the Games and Amusements Board two days immediately prior to the holding of any such charity races."

SEC. 2. This Act shall take effect upon its approval.

Approved, May 29, 1954.

H. No. 30

[REPUBLIC ACT No. 984]

AN ACT TO ABOLISH THE POSITION OF ASSISTANT PROVINCIAL FISCAL IN THE PROVINCE OF ANTIQUE, REPEALING FOR THE PURPOSE THE TWENTY-SIXTH SUBPARAGRAPH OF THE FIRST PARAGRAPH OF SECTION SIXTEEN HUNDRED AND SEVENTY-FOUR OF THE ADMINISTRATIVE CODE, AS AMENDED.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The twenty-sixth subparagraph of the first paragraph of section sixteen hundred and seventy-four of the Administrative Code, as amended, is repealed.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 1, 1954.

H. No. 238

[REPUBLIC ACT No. 985]

AN ACT TO CHANGE THE NAME OF THE LAGUNA HIGH SCHOOL IN STA. CRUZ, PROVINCE OF LAGUNA, TO PEDRO GUEVARA MEMORIAL HIGH SCHOOL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. In recognition of the eminent and patriotic services rendered to the country by the late Pedro Guevara, the name of Laguna High School in Sta. Cruz, Province of Laguna, is hereby changed to Pedro Guevara Memorial High School.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 2, 1954.

H. No. 239

[REPUBLIC ACT No. 986]

AN ACT TO CHANGE THE NAME OF PAGSANJAN ELEMENTARY SCHOOL IN PAGSANJAN, PROVINCE OF LAGUNA, TO FRANCISCO BENITEZ MEMORIAL SCHOOL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. In recognition of the educational contribution and eminent services rendered to the country by the late Francisco Benitez, the name of Pagsanjan Elementary School in Pagsanjan, Province of Laguna, is hereby changed to Francisco Benitez Memorial Elementary School.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 2, 1954.

H. No. 431

[REPUBLIC ACT No. 987]

AN ACT TO AMEND SECTION TWO OF REPUBLIC ACT NUMBERED THREE HUNDRED FIFTY-EIGHT BY WITHDRAWING THE EXEMPTION GRANTED TO THE NATIONAL POWER CORPORATION FROM PAYING REAL ESTATE TAX.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section two of Republic Act Numbered Three hundred fifty-eight is amended to read as follows:

“SEC. 2. To facilitate payment of its indebtedness, the National Power Corporation shall be exempt from all taxes, except real property tax, and from all duties, fees, imposts, charges, and restrictions of the Republic of the Philippines, its provinces, cities and municipalities.”

SEC. 2. This Act shall take effect upon its approval.

Approved, June 2, 1954.

H. No. 1591

[REPUBLIC ACT No. 988]

AN ACT GRANTING A LIFE PENSION TO THE WIDOW OF THE LATE COMMISSIONER PEDRO GUEVARA IN CONSIDERATION OF HIS MANY YEARS OF OUTSTANDING AND HIGHLY MERITORIOUS PUBLIC SERVICE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. In consideration of the many years of outstanding and highly meritorious public service rendered in various capacities by the late Commissioner Pedro Guevara, a life pension in the amount of two thousand four hundred pesos annually, payable in twelve equal installments, is hereby granted to his widow. Such gratuity shall not be subject to attachment or levy and shall be exempt from any tax.

SEC. 2. The sum of two thousand four hundred pesos is hereby authorized to be appropriated, out of any funds in the National Treasury not otherwise appropriated, for the payment of the pension herein authorized for the fiscal year 1954-1955. Thereafter the necessary amount therefor shall be included in the annual General Appropriation Act.

SEC. 3. This Act shall take effect upon its approval.

Approved, June 2, 1954.

H. No. 324

[REPUBLIC ACT No. 989]

AN ACT TO APPROPRIATE THE SUM OF TWO HUNDRED THOUSAND PESOS FOR THE RECONSTRUCTION AND EXPANSION OF THE COLLEGE OF FORESTRY BUILDING IN LOS BAÑOS, LAGUNA, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. There is hereby appropriated, out of the funds in the National Treasury not otherwise appropriated, the sum of two hundred thousand pesos which shall be expended by the President of the Philippines for the reconstruction and expansion of the College of Forestry building in Los Baños, Laguna; for the purchase of necessary laboratory and office supplies and equipment, and for such other expenditures as may be deemed necessary to carry out properly and effectively the purposes of this Act: *Provided*, That any unexpended balance of the amount herein appropriated at the end of each fiscal year shall be available for the same purposes in succeeding years until the same is exhausted.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 2, 1954.

H. No. 2143

[REPUBLIC ACT No. 990]

AN ACT PROVIDING FOR THE PAYMENT OF A PART OF THE SUBSCRIPTION OF THE GOVERNMENT TO THE REVOLVING CAPITAL OF THE AGRICULTURAL CREDIT AND COOPERATIVE FINANCING ADMINISTRATION.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. For the payment of part of the subscription of the Government to the revolving capital of the Agricultural Credit and Cooperative Financing Administration, created by Republic Act Numbered Eight hundred twenty-one, there is hereby appropriated, out of any funds in the National Treasury not otherwise appropriated, the sum of thirty million pesos, one third of which, or the sum of ten million pesos, shall immediately be released, and the balance shall be released as funds become available.

SEC. 2. For the same purpose, all lands, warehouses, and their improvements, of the abolished National Abaca and Other Fibers Corporation, National Coconut Corporation, National Tobacco Corporation, and National Warehousing Corporation, which are still in the custody of the Board of Liquidators, are transferred to the Agricultural Credit and Cooperative Financing Administration, and their money value, as appraised by a committee to be composed of the Auditor General, the Secretary of Finance and the Secretary of Commerce and Industry, shall be credited as a part of such subscription of the Government.

SEC. 3. This Act shall take effect upon its approval.

Approved, June 3, 1954.

H. No. 337

[REPUBLIC ACT No. 991]

AN ACT AMENDING THE FIRST PARAGRAPH OF SECTION TWO HUNDRED AND SIXTY OF THE NATIONAL INTERNAL REVENUE CODE BY REDUCING THE AMUSEMENT TAX ON BOXING EXHIBITIONS AND PROHIBITING MUNICIPAL

CORPORATIONS FROM LEVYING FURTHER
TAXES ON SUCH EXHIBITIONS EXCEPT UP TO
THE AMOUNT OF FIVE *PER CENTUM*.

*Be it enacted by the Senate and House of Representatives
of the Philippines in Congress assembled:*

SECTION 1. The first paragraph of section two hundred and sixty of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 260. *Amusement taxes.*—There shall be collected from the proprietor, lessee, or operator of theaters, cinematographs, concert halls, circuses, and other places of amusement the following taxes:

"(a) When the amount paid for admission exceeds twenty centavos but does not exceed twenty-nine centavos, four centavos on each admission;

"(b) When the amount paid for admission exceeds twenty-nine centavos but does not exceed thirty-nine centavos, six centavos on each admission;

"(c) When the amount paid for admission exceeds thirty-nine centavos but does not exceed forty-nine centavos, eight centavos on each admission;

"(d) When the amount paid for admission exceeds forty-nine centavos but does not exceed fifty-nine centavos, ten centavos on each admission;

"(e) When the amount paid for admission exceeds fifty-nine centavos but does not exceed sixty-nine centavos, twelve centavos on each admission;

"(f) When the amount paid for admission exceeds sixty-nine centavos but does not exceed seventy-nine centavos, fourteen centavos on each admission;

"(g) When the amount paid for admission exceeds seventy-nine centavos but does not exceed eighty-nine centavos, sixteen centavos on each admission;

"(h) When the amount paid for admission exceeds eighty-nine centavos but does not exceed ninety-nine centavos, eighteen centavos on each admission; and

"(i) When the amount paid for admission exceeds ninety-nine centavos, the tax will be thirty *per centum*.

"In the case of boxing exhibitions, there shall be collected from the proprietor, lessee, or operator an amusement tax at a rate equivalent to fifty *per centum* of the taxes prescribed in the preceding paragraph: *Provided*, That no local government shall impose any tax in excess of five *per centum*: *Provided, further*, That all laws and ordinances in contravention hereto are repealed."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 4, 1954.

S. No. 45

H. No. 2534

[REPUBLIC ACT No. 992]

AN ACT TO PROVIDE FOR A BUDGET SYSTEM
FOR THE NATIONAL GOVERNMENT

*Be it enacted by the Senate and House of Representatives
of the Philippines in Congress assembled:*

SECTION 1. *Title of this Act.*—This Act shall be known as "The Revised Budget Act."

SEC. 2. *Declaration of policy.*—It is hereby declared the policy of Congress that the whole budgetary concept of the Government be based on functions, activities, and projects, in terms of expected results.

SEC. 3. *Definition of terms.*—When used in this Act:

a. The term "Budget" means the budget required by section nineteen (1), Article VI, of the Constitution, to be submitted by the President to Congress, and which is referred to in section seven of this Act.

b. The term "Government" means the National Government as distinguished from the different forms of local governments.

c. The terms "department and agency" and "department or agency" means any department, bureau, office, board, or any establishment of the Executive Branch of the National Government.

d. The term "current operating expenditures" refers to appropriations spent for the purchase of goods and services for current consumption or within the fiscal year, including the acquisition of furniture and equipment usually used in the conduct of normal government operations.

e. The term "capital outlays" or "capital expenditures" refers to the purchase of goods and services of a longer life-expectancy extending beyond the fiscal year and which add to the assets of the Government, except furniture and equipment usually used in the conduct of normal government operations.

f. The term "expected results" means a delineation of the services, and products, or benefits that will accrue to the public, together with the estimated unit cost of each type of service, and product, or benefit.

THE BUDGET COMMISSION

SEC. 4. *The Budget Commission.*—There is hereby created an office to be known as the Budget Commission under the executive control and supervision of the President. There shall be in the Commission a Budget Commissioner and a Deputy Budget Commissioner who shall be appointed by the President with the consent of the Commission on Appointments. The Deputy Budget Commissioner shall perform such duties as the Commissioner may designate, and during the absence or incapacity of the latter, shall act as Commissioner.

SEC. 5. *Salaries.*—The Budget Commissioner shall receive a compensation of twelve thousand pesos per annum, and the Deputy Budget Commissioner, nine thousand pesos per annum.

SEC. 6. *Functions and powers of the Commission.*—The functions and powers of the Commission shall be as follows:

a. To prepare the Budget and other appropriation proposals under such policies as the President may adopt. To this end, the Commissioner shall have authority to assemble, correlate, revise, reduce or increase the requests for appropriations of the different departments and agencies of the Government, and to see how their respective programs are related to each other and how they may be shaped into a harmonious program and fiscal policy for the executive branch as a whole.

b. The Budget Commission, when directed by the President, shall make a detailed study of the departments and establishments for the purpose of enabling the President to determine what changes, with a view to securing greater economy and efficiency in the conduct of the public service, should be made in (1) the existing organization, activities, and methods of business of such departments or establishments, (2) the appropriations therefor, (3) the assignment of particular activities to particular services, or (4) the regrouping of services. The results of such study shall be embodied in a report or reports to the President, who may transmit to Congress such report or reports or any part thereof with his recommendations on the matters covered thereby.

c. Under such regulations as the President may prescribe, (1) every department or agency shall furnish the Budget Commission such necessary information as the Commission may from time to time require and (2) the Commissioner and Deputy Commissioner, or any employee of the Commission when duly authorized, shall, for the purpose of securing such information, have access to, and the right to examine, any books, documents, papers, or records of any such department or agency.

d. To develop programs and to issue regulations and orders for the improved gathering, compiling, analysis, publication, and dissemination of relevant and necessary statistical information for any purpose by the departments and agencies. Such regulations and orders shall be adhered to by said departments and agencies.

e. To furnish, at the request of any committee, of either House of Congress having jurisdiction over revenue or appropriations, such assistance and information as such committee may require.

THE BUDGET

SEC. 7. *Submission.*—The President shall, in accordance with section nineteen (1), Article VI, of the Constitution, submit within fifteen days of the opening of each regular session of Congress a budget of receipts and expenditures which shall be the basis of the general and other appropriation bills.

He may also, from time to time, transmit to Congress such proposed supplemental or deficiency appropriations as, in his judgment, (1) are necessary on account of laws enacted after the transmission of the Budget, or (2) are otherwise in the public interest. He shall accompany such proposals with a statement of the reasons therefor, including the reasons for their omission from the Budget. Whenever such proposed supplemental or deficiency appropriations reach an aggregate which, if they had been contained in the Budget, would have required the President to make a recommendation as provided in section thirteen of this Act, he shall thereupon make such recommendation.

SEC. 8. *Form and content.*—The Budget shall consist of two parts—(1) the *current operating expenditures*, and (2) the *capital outlays*.—Each part of the Budget shall comprise the general fund and all classes of special, operating trust funds, and bond funds under the care and control of the different departments and agencies. The Budget shall embody as appendices the proposed General

Appropriation Act, the Public Works Act, and other appropriation Acts to cover the budget proposals.

The Budget shall also contain:

(a) a budgetary message setting forth in brief the significance of the appropriations proposed;

(b) a brief summary of the functions and activities of the Government; and

(c) summary financial statements setting forth:

(1) the estimated expenditures and proposed appropriations necessary for the support of the Government for the ensuing fiscal year;

(2) the estimated receipts during the ensuing fiscal year under laws existing at the time the Budget is transmitted, and under the revenue proposals, if any, contained in the Budget;

(3) the actual appropriations, expenditures, and receipts during the last completed fiscal year;

(4) the estimated expenditures and receipts and actual or proposed appropriations during the fiscal year in progress;

(5) balanced statements of the condition of the National Treasury at the end of the last completed fiscal year, the estimated condition of the Treasury at the end of the fiscal year in progress, and the estimated condition of the Treasury at the end of the ensuing fiscal year, if the financial proposals contained in the Budget are adopted, showing, at the same time, the unencumbered and unobligated cash resources;

(6) all essential facts regarding the bonded and other long-term obligations and indebtedness of the Government; and

(7) such other financial statements and data as are deemed necessary or desirable in order to make known in all practicable detail the financial conditions of the Government.

SEC. 9. *Change in the form of the Budget.*—Whenever any change is made by law in the form of the Budget, the President, in addition to the Budget, shall transmit to Congress such explanatory notes and tables as may be necessary to show where the various items embraced in the Budget of the prior fiscal year are contained in the new Budget.

SEC. 10. *Submission of budget estimates by departments and agencies.*—Each head of department or agency shall submit his request for appropriations to the Budget Commissioner on or before a date he shall determine and in accordance with such regulations as he may issue in conformity with the general requirements of this Act.

Budget estimates for all operating departments and agencies shall be divided into two primary categories—the *current operating expenditures* and the *capital outlays*—prescribed on the basis of major functions, activities, and projects, so arranged as to show the general character and relative importance of the work to be accomplished or the services to be rendered, and the principal elements of costs involved. To this end, budget estimates shall be supported by:

(1) Personnel schedules showing in summary form the proposed employment of personnel grouped by salary grades, without regard to job-title or designations, except for key positions.

(2) Brief narrative description of the nature of the work to be performed and explanation of the significance and scope of each program by activity, service, end-product or benefit, the unit cost involved, and whatever changes in emphasis there may be over previous years, together with a comparable progress report of the work accomplished and under way.

SEC. 11. *Departmental approval of proposed appropriations.*—No legislative proposal which, if enacted, would authorize subsequent appropriations shall be transmitted by any department or agency to the Budget Commissioner, or to the President, without the prior approval of the Secretary of the Department concerned. Nor shall any such legislative proposal be transmitted to Congress without the approval of the President.

SEC. 12. *Designation of Budget Officers.*—The head of each department or agency shall designate an official thereof as Budget Officer who shall prepare the estimates for all appropriations needed by such department or agency and perform such other work as the head may assign to him to implement the provisions of this Act relating to the control and execution of authorized appropriations.

SEC. 13. *Balanced Budget.*—The ordinary income shall be used primarily to provide for the current operation of the Government. Except in case of a national emergency or serious financial stress, the existence of which has been duly proclaimed by the President, the total authorized appropriations for the current operations shall not exceed the ordinary income; and, unless extraordinary circumstances justify it, the total estimated ordinary income shall not only cover the total estimated appropriations for current operations and capital outlays but it shall leave a reasonable surplus besides.

No appropriations for the current operations and capital outlays of the Government shall be proposed, unless the amount involved is covered by the ordinary income, or unless it be supported by a proposal creating an additional source of funds or revenue, sufficient to cover the same. Likewise, no appropriation for any other expenditures, the amount of which is not covered by the estimated income from the existing sources of revenues or available current surplus, may be proposed unless it be supported by a proposal creating an additional source of fund sufficient to cover the same.

The proposals creating additional sources of funds shall be prepared in the form of revenue bills which shall be appended to the Budget.

The provisions of this section shall not be construed as impairing in any way the power of Congress to enact revenue and appropriation bills, nor the authority of the President to propose special revenue and appropriation bills after the submission of the budget.

BUDGET EXECUTION AND CONTROL

SEC. 14. *Use of appropriated funds.*—All moneys appropriated for the various functions, activities and projects

in terms of expected results, shall be available solely for the specific purposes for which appropriated, and for no other.

SEC. 15. *Allotment of appropriations.*—To prevent the incurrence of deficits, authorized appropriations shall be allotted in accordance with the procedure outlined hereunder:

(a) No appropriation authorized for any department and agency of the Government shall be available for expenditure until the head of each department or agency shall have submitted to the Budget Commissioner a request for allotment of funds showing the estimated amounts needed for each function, activity, or purpose for which the funds are to be expended during the applicable allotment period and until the request shall have been approved by the Commissioner as hereinafter provided. The form of the request for allotment shall be prescribed by the Commissioner and shall be submitted to him at least twenty-five days prior to the beginning of the fiscal year showing the proposed quarterly allotments of the whole authorized appropriation for the department or agency.

(b) For purposes of the administration of the allotment system herein provided, each fiscal year shall be divided into four quarterly allotment periods beginning, respectively, on the first day of July, October, January, and April: *Provided*, That in any case where the quarterly allotment period is found to be impracticable, the Commissioner may prescribe a different period suited to the circumstances but not extending beyond the end of the fiscal year.

(c) Each request for allotment shall be reviewed by the Budget Commissioner and the respective amounts therein shall be allotted for expenditures, provided the estimate therein is within the terms of the appropriations as to amount and purpose, having due regard for the probable future needs of the bureau, office or agency for the remainder of the fiscal year or other term for which the appropriation was made, and provided the bureau, office or agency contemplates expenditure of the allotment during the period. Otherwise, the said Budget Commissioner shall modify the estimate so as to conform with the terms of the appropriation and the prospective needs of the bureau, office or agency, and shall reduce the amount to be allotted accordingly. The Budget Commissioner shall act promptly upon all requests for allotment and shall notify every bureau, office or agency of its allotments at least five days before the beginning of each allotment period. The total amount allotted to any bureau, office or agency for the fiscal year or other term for which the appropriation was made shall not exceed the amount appropriated for said year or term. The notification, which will be sufficient authority for the Chief Accountant to enter the allotment in the books, shall include an explanation for any decrease or increase in the request of the head of the department or agency.

(d) At the end of each quarter, each department or agency must report to the Commissioner the current status of its appropriations, the cumulative allotments, obligations, expenditures, and unliquidated obligations and unobligated and unexpended balances; and the results of

expended appropriations. Such department or agency may, at any time, initiate or request for a change in allotments in order to adopt its functions or activities to altered conditions.

(e) The Commissioner shall have authority also at any time to modify or amend any allotment previously made by him. In case he shall find at any time that the probable receipts from taxes or other sources for any fund will be less than were anticipated and that as a consequence the amount available for the remainder of the term of the appropriations, or for any allotment period will be less than the amount estimated or allotted therefor, he shall, with the approval of the President, and after notice to the department or agency concerned, reduce the amount or amounts to be allotted so as to prevent deficits.

(f) The Commissioner shall promptly transmit records and modifications thereof to the Auditor General, the Chairman of the Committee on Finance of the Senate and the Chairman of the Committee on Appropriations and Chairman of the Committee on Ways and Means of the House of Representatives and the Secretary of Finance.

(g) The Commissioner shall maintain control records showing quarterly by funds, accounts, and other pertinent classifications, the amounts appropriated, the estimated revenues, the actual revenues or receipts, the amounts allotted and available for expenditures, the unliquidated obligations, actual balances on hand, and the unencumbered balances of the allotments for each agency of the Government.

SEC. 16. *Creation of appropriation reserves.*—The Budget Commissioner shall in consultation with the head of the department or agency, establish reserves against appropriations to provide for contingencies and emergencies which may arise later in the fiscal year and which would otherwise require a deficiency appropriation.

The establishment of appropriation reserves should not necessarily mean that such portion of the appropriation will not be made available for expenditure. All or a portion of an appropriation may be reserved by the Budget Commissioner when he has determined that the amounts involved may not be needed. Should conditions change during the fiscal year which would justify the use of the reserve, the necessary adjustment may be made by the Budget Commissioner when requested by the Department or agency affected.

SEC. 17. *Certification of availability of funds.*—No funds shall be disbursed, and no expenditures or obligation chargeable against any authorized allotments shall be incurred or authorized by any head of department or agency without first securing the certification of the corresponding Chief Accountant as to the availability of funds and allotment against which the expenditure or obligation may properly be charged.

SEC. 18. *Adjustment of appropriations for reorganization.*—When, under authority of law, a function or an activity is transferred or assigned from one agency to another agency, the balances of the appropriations which are determined by the head of such department to be available and necessary to finance or discharge the func-

tion or activity so transferred or assigned may, with the approval of the President, be transferred to and be available for use by, the agency to which said function or activity is transferred or assigned for any purpose for which said funds were originally available. Balances so transferred shall be credited to any applicable existing appropriation account or accounts or to any new appropriation account or accounts which are hereby authorized to be established, and shall be merged with funds in the applicable existing or newly established appropriation account or accounts and thereafter accounted for as one fund.

SEC. 19. *Prohibition against use of appropriations for the payment of salaries and wages of officers or employees engaged in a strike against the Government.*—Subject to existing civil service rules and regulations and the proper administrative proceedings, no part of the funds of, or available for expenditures by, any department or agency of the Government shall be used to pay the salaries or wages of any officer or employee who engages in a strike against the Government of the Republic of the Philippines or who is a member of an organization of government employees that in the opinion of the Secretary of Justice asserts the right to strike against the Government of the Republic of the Philippines or who in the opinion of said Secretary of Justice advocates the overthrow of the Government of the Republic of the Philippines by force or violence: *Provided*, That for the purposes hereof an affidavit shall be considered sufficient evidence that the person making the affidavit has not contrary to the provisions of this section engaged in a strike against the Government of the Republic of the Philippines, is not a member of any organization of government employees that asserts the right to strike against the Government of the Republic of the Philippines, or that such person does not advocate and is not a member of an organization that advocates the overthrow of the Government of the Republic of the Philippines by force or violence.

SEC. 20. *Prohibition against the incurrence of overdrafts.*—All heads of departments and agencies shall not incur or authorize the incurrence of expenditures or obligations in excess of the amounts appropriated by law for their respective departments and agencies. Parties responsible for the incurrence of overdrafts shall be held personally liable therefor.

SEC. 21. *Liability for illegal expenditures.*—Every expenditure or obligation authorized or incurred in violation of the provisions of this Act or of the general and special provisions contained in the annual general or any other Appropriation Acts shall be void. Every payment made in violation of said provisions shall be illegal and every officer or employee authorizing or making such payment, or taking part therein, and every person receiving such payment shall be jointly and severally liable to the Government for the full amount so paid or received.

If any officer or employee of the Government shall knowingly incur any obligation or shall authorize or make any expenditure in violation of the provisions herein referred to or take part therein, it shall be ground for his removal by the officer appointing him, and if the appoint-

ing officer be other than the President and shall fail to remove such officer or employee, the President shall exercise such power of removal after giving notice of the charges and opportunity for hearing thereon to the accused officer or employee and to the officer appointing him.

SEC. 22. *Accrual of income to unappropriated general fund.*—Unless otherwise specifically provided by law, all income accruing to the departments and agencies by virtue of the provisions of existing laws, orders, and regulations shall be deposited in the National Treasury or in any duly authorized depository of the Government by the officers or employees receiving them, and, except receipts pertaining to special and trust funds shall accrue to the unappropriated general fund of the Government.

SEC. 23. *Reversion of unexpended balances of appropriations.*—The unexpended balances of appropriations authorized in any annual General Appropriation Act shall revert to the unappropriated general fund in the National Treasury at the end of the fiscal year for which such appropriations are authorized, and shall not thereafter be available for expenditure except by subsequent legislative enactment.

The Auditor General may transfer at any time from moneys appropriated for a specific purpose to the unappropriated general fund any surplus balances standing to the credit of any appropriation or fund when the officer having administrative control thereof shall certify to the Auditor General that there is a surplus in excess of the requirements, or that the work or purpose for which the appropriation was made has been completed or indefinitely postponed, and that there are no outstanding obligations to be paid therefrom.

SEC. 24. *Saving Provision.*—The provisions of Commonwealth Act Numbered Two hundred forty-six, otherwise known as the Budget Act, and other existing laws, policies, procedures, and directives pertaining to functions covered by, or otherwise inconsistent with the provisions of this Act, are hereby repealed.

SEC. 25. This Act shall take effect and be fully operative beginning with the fiscal year nineteen hundred and fifty-six to nineteen hundred and fifty-seven: *Provided*, That as far as practicable a partial implementation may be made in the budget for fiscal year nineteen hundred and fifty-five to nineteen hundred and fifty-six.

Approved, June 4, 1954.

H. No. 292

[REPUBLIC ACT No. 993]

AN ACT RECREATING THE MUNICIPALITIES OF
LEGASPI AND DARAGA IN THE PROVINCE OF
ALBAY.

*Be it enacted by the Senate and House of Representatives
of the Philippines in Congress assembled:*

SECTION 1. The municipality of Legaspi and the municipality of Daraga, as constituted before the creation of the City of Legaspi, are hereby recreated as municipalities in the Province of Albay.

SEC. 2. The funds and obligations and property of all kinds of the City of Legaspi shall be divided equitably between the municipality of Legaspi and the municipality of Daraga, recreated under the provisions of this Act, by the President of the Philippines upon recommendation of the Auditor General.

SEC. 3. Officials and employees of the City of Legaspi who may be separated from the service as a consequence of the provisions of this Act, shall receive a gratuity in an amount equivalent to one month's salary for every year of service in the government of the said city, the same to be paid by the National Government.

SEC. 4. The first mayor, vice-mayor, and the councilors of the municipality of Legaspi and the municipality of Daraga recreated herein shall be appointed by the President of the Philippines and shall hold office until their successors shall have been elected and shall have qualified.

SEC. 5. The sum of ten thousand pesos or so much thereof as may be necessary is hereby authorized to be appropriated, out of any funds in the National Government not otherwise appropriated, to pay for the gratuity herein authorized to be paid.

SEC. 6. Republic Act Numbered Three hundred six is repealed.

SEC. 7. This Act shall take effect upon its approval.

Approved, June 8, 1954.

H. No. 2085

[REPUBLIC ACT No. 994]

AN ACT TO AMEND CERTAIN ITEMS OF REPUBLIC ACT NUMBERED NINE HUNDRED TWENTY, REGARDING PUBLIC WORKS PROJECTS FOR THE PROVINCE OF CAVITE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Item three, Group I, paragraph (b), Title B, section one of Republic Act Numbered Nine hundred twenty, regarding public works for the Province of Cavite, is amended to read as follows:

“(3) Andres Bonifacio Memorial Hospital,
Quintana or site of proposed provincial capital, Cavite P150,000.00”

SEC. 2. Item (j), Group II, paragraph (a), Title C, section one of the same Act, regarding public works for the same province, is amended to read as follows:

“(j) Naic-Sahing-Dasmariñas via Quintana road P80,000.00”

SEC. 3. Item sixteen (g), Group II, paragraph (a), Title E, section one of the same Act, regarding public works for the same province, is amended to read as follows:

“(g) Bacoar public market building, including purchase of site P40,000.00”

SEC. 4. This Act shall take effect upon its approval.

Approved, June 8, 1954.

H. No. 2208

[REPUBLIC ACT No. 995]

AN ACT APPROPRIATING THE SUM OF TWO HUNDRED FIFTY THOUSAND PESOS, OUT OF ANY FUNDS IN THE NATIONAL TREASURY NOT OTHERWISE APPROPRIATED, AS AID TO THE CITY OF TAGAYTAY TO HELP SAID CITY FINANCE THE RECONSTRUCTION OF ITS URGENT PUBLIC IMPROVEMENTS.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. In order to help the City of Tagaytay finance the reconstruction and repair of its urgent public improvements there is hereby appropriated the sum of two hundred fifty thousand pesos as aid to said city.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 8, 1954.

H. No. 2475

[REPUBLIC ACT No. 996]

AN ACT APPROPRIATING THE SUM OF THREE MILLION ONE HUNDRED EIGHTY-SEVEN THOUSAND FIVE HUNDRED EIGHTY-THREE PESOS AND TWENTY-FIVE CENTAVOS TO ENABLE THE BUREAU OF POSTS TO PAY THE BALANCE OF ITS OUTSTANDING OBLIGATION TO THE PHILIPPINE AIR LINES, INC., FOR SERVICES RENDERED BY THE LATTER IN THE CARRIAGE OF AIR MAIL ON ITS INTERNATIONAL ROUTES FROM MARCH FIRST, NINETEEN HUNDRED AND FIFTY TO MARCH THIRTY-FIRST, NINETEEN HUNDRED AND FIFTY-FOUR.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sum of three million one hundred eighty-seven thousand five hundred eighty-three pesos and twenty-five centavos, or so much thereof as may be necessary, is hereby appropriated, out of any funds in the National Treasury not otherwise appropriated, to enable the Bureau of Posts to settle completely the outstanding balance of its obligation to Philippine Air Lines, Inc., for services rendered by the latter in connection with the carriage of air mail on its international routes from March first, nineteen hundred and fifty to March thirty-first, nineteen hundred and fifty-four: *Provided*, That no further obligation of this nature shall be hereafter incurred without previous Congressional authority.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 9, 1954.

S. No. 117

H. No. 1806

[REPUBLIC ACT No. 997]

AN ACT CREATING THE GOVERNMENT SURVEY AND REORGANIZATION COMMISSION AND APPROPRIATING FUNDS THEREFOR.

SECTION 1. This Act shall be known as the "Reorganization Act of Nineteen hundred and fifty-four".

SEC. 2. (a) The reorganization to be carried out under this Act shall have the following objectives:

- (1) To promote the better execution of the laws, and the more effective management of the government and expeditious administration of public business;
- (2) To promote economy to the fullest extent consistent with the efficient operations of the government; and
- (3) To increase the efficiency of the operations of the government to the fullest extent possible.

(b) The Congress declares that the public interest demands the carrying out of the objectives specified in subsection (a) of this section and that such objectives may be accomplished in great measure and more speedily by proceeding under the provisions of this Act, than by the enactment of specific legislation.

SEC. 3. To carry out the purposes of this Act, there is hereby created the Government Survey and Reorganization Commission, hereinafter known as the "Commission", which shall conduct a study and investigation of the present organization and methods of operation of all departments, offices, bureaus, agencies, and instrumentalities of the Executive Branch of the Government, and determine what change or changes are necessary to accomplish the objectives set forth in subsection (a) section two of this Act.

The Commission shall be composed of twelve members as follows:

- (1) Four appointed by the President of the Philippines who may or may not be officials of the government;
- (2) Four members of the Senate appointed by the President thereof, one of whom shall not be of the majority party;
- (3) Four members of the House of Representatives appointed by the Speaker thereof, one of whom shall not be of the majority party.

The Commission shall elect a chairman and a vice-chairman from among its members. It shall have the power to appoint and fix compensations of such personnel as it deems advisable in accordance with the provisions of the Civil Service laws.

Seven members of the Commission shall constitute a quorum.

Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

Members of the Commission who are officials in the government shall receive no additional compensation for their services as members of the Commission. Members of the Commission who are not officials in the government shall receive a per diem of twenty-five pesos when engaged in the performance of duties vested in the Commission. Travelling and other necessary expenses shall, however, be allowed.

SEC. 4. To accomplish the objectives set forth in subsection (a), section two of this Act, the Commission is authorized:

(1) to group, coordinate or consolidate departments, bureaus, offices, agencies, instrumentalities and functions of government;

(2) to abolish departments, offices, agencies or functions which may not be necessary for the efficient conduct of the government service, activities and functions;

(3) to eliminate overlapping and duplication of services, activities and functions of the government;

(4) to transfer functions, appropriations, equipment, property, records, and personnel, from one department, bureau, office, agency, or instrumentality to another;

(5) to create, classify, combine, split or abolish positions;

(6) to standardize salaries, materials and equipment; and

(7) to do whatever is necessary and desirable to effect economy and promote efficiency in the government: *Provided, however,* That in the reorganization to be effected by this Act, no office or agency or function of the government shall be made to continue beyond the period authorized by law or beyond the time when it would have terminated if the reorganization had not been made.

SEC. 5. (a) Whenever the Commission, after study and investigation finds that there is a necessity to accomplish one or more of the purposes of subsection 2(a), it shall prepare and submit to the President of the Philippines who may submit the same to the Congress, an organization plan or plans (bearing an identifying number) together with a declaration that, with respect to each reorganization included in the plan or plans, it has found that such reorganization is necessary to accomplish one or more of the purposes of subsection 2(a): *Provided,* That such reorganization shall be within the limits of current appropriations.

(b) No provision contained in the reorganization plan shall take effect unless the plan is transmitted to Congress on or before March fifteen, nineteen hundred and fifty-five.

SEC. 6. (a) The provisions of the reorganization plan or plans shall take effect after the expiration of the thirty calendar days of session of the Congress following the date on which the plan is transmitted to it, unless between the date of transmittal and the expiration of such thirty-day period, either House by simple resolution disapproves the reorganization plan. The said plan of reorganization shall likewise, be in full force and effect, if Congress approves it in a Concurrent Resolution within such period of thirty days.

(b) For the purposes of subsection (a) hereof, adjournment of the Congress shall suspend the running of the thirty day period, and the same shall commence to run again on the day the Congress next meets either in regular or in special session, when specifically authorized in case of a special session to act on said plan or plans of reorganization.

SEC. 7. For the purpose of carrying out the provisions of this Act, the Commission, or any member thereof, or division thereof, may hold such hearings and sit and act at such times and places, and take such testimony, as the Commission may, by internal rule, provide. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such member, or division.

The Commission is authorized to secure directly from any executive department, bureau, office, agency or instrumentality, suggestions, estimates and statistics for the purposes of this Act; and each such department, bureau, office, agency or instrumentality is authorized and directed to furnish such information, suggestions, estimates and statistics directly to the Commission, upon request made by the chairman or vice-chairman of said Commission or of any division thereof.

SEC. 8. One year after the approval of this Act the Commission shall cease to exist.

SEC. 9. The term "government", "agency", "instrumentality", or "office", used in this Act means the executive department, bureau, commission, council, board, office, division, service, administration, government owned or controlled corporation, authority, or any establishment of the government.

SEC. 10. (a) (1) Any statute enacted, or any regulation or other action made, prescribed, issued, granted, or performed in respect of or by any agency or function affected by the reorganization under the provisions of this Act, before the effective date of such reorganization, shall, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, have the same effect as if such reorganization had not been made; but where any such statute, regulation, or other action has vested a certain function in an agency from which such function is already removed under the plan, such function shall, insofar as it is to be exercised after the plan becomes effective, be considered as vested in the agency under which the function is placed by the plan.

(2) As used in paragraph (1) of this subsection the term "regulation or other action" means any regulation, rule, order, policy, determination, directive, authorization, permit, privileges, requirement, designation or other action.

SEC. 11. (a) Officers and employees whose positions are abolished or who may be separated or removed from the service as a consequence of the reorganization provided in this Act shall not lose their civil service eligibility for a period of ten years from the date of their separation or removal from the service, nor their right to any existing gratuity or to any gratuity that the Congress may provide. In the event that any government office needs the services of additional personnel, preference in the appointment shall be given to the officers or employees who may be separated or removed from the service as a result of this reorganization and in accordance with the recommendation of the Commission on Civil Service.

(b) Whenever the Commission, after study and investigation finds that it is necessary to reduce personnel, it shall, in laying off employees, observe the following:

(1) Assign the duties performed by any employee laid-off to any other employee or employees in the office involved holding positions in appropriate classes;

(2) Consider the relative seniority of the employees in the designated organization and occupational units where a reduction of personnel is to be made. Except as otherwise provided in this Act, in determining seniority, one point shall be allowed for each complete month of full time service with the government. The Commission shall provide by rule: (a) the extent to which seniority credits may be granted for less than full time service; (b) the basis for determining the sequence of layoff whenever the class and subdivision of layoff includes employees whose service is less than full time; (c) the basis on which seniority credit may be combined for employees who have served in the National Government, the government corporations, the provincial governments, municipalities, and cities; (d) the method by which ties in seniority credit shall be broken; and (e) such other matters as are necessary or advisable for the operation of the provisions of this Act.

(3) Whenever some positions and/or offices of a group of similar positions and/or offices, are to be abolished those occupied by non-civil service eligibles shall be first abolished. Where an office or position now occupied by a civil service eligible is abolished or consolidated with another office or position, the occupant thereof shall be given preference in the appointment to any new office or position created under the reorganization plan contemplated in this Act. This must be adhered to whenever the eligibility and previous training of said occupant qualifies him for appointment to the new position or office created.

(4) An employee compensated on a monthly basis shall be notified that he is to be laid off thirty days prior to the effective date of the layoff. An employee compensated on a per diem basis shall be notified that he is to be laid off fifteen days prior to the effective date of the layoff.

(5) When notices of layoff have been issued, the Commission shall immediately render to the Bureau of Civil Service a report containing the names and seniority credits of all employees in the unit affected by the layoff, with a designation of the names of those laid off. The names of employees laid off shall be placed upon a reemployment list for the appropriate occupational and organization unit in which such layoff occurred. The list shall be arranged in the order of the employees' seniority. All employees who were holding permanent positions at the time they were laid off shall be ranked ahead of employees whose status was temporary.

(6) An employee whose name appears on the reemployment list shall have a prior right to appointment to any vacancy which occurs and for which he may be justified in the organizational unit in which he was employed at the time the layoff occurred. Appointments shall be made from the reemployment list in the order in which names appear on the list. When in the judgment of the Com-

mission, or the Commissioner of Civil Service when the Commission had completed its work and is therefore no longer existing, no person on the reemployment list possesses the necessary training, experience, or professional qualifications for the vacancy to be filled, an exception may be made and an appointment made from among persons who are not on the reemployment list.

(7) The salary of a person reappointed from the reemployment list shall be the same as that he was paid prior to his layoff: *Provided*, That if there has been a general adjustment of salaries of government employees during the period of his layoff, he may receive a salary corresponding to what he would have received had he not been laid off: *And provided further*, That if he accepts a kind of position other than that from which he was laid off, he shall receive the salary appropriate for entrance to the new position.

SEC. 12. To carry out the provisions of this Act, the sum of two hundred thousand pesos or so much thereof as may be necessary is hereby appropriated out of any funds in the National Treasury not otherwise appropriated.

SEC. 13. This Act shall take effect upon its approval.

Approved, June 9, 1954.

H. No. 2203

[REPUBLIC ACT No. 998]

AN ACT APPROPRIATING THE SUM OF TWO HUNDRED THOUSAND PESOS FOR THE ESTABLISHMENT, MAINTENANCE AND OPERATION OF THE MINDANAO INSTITUTE OF TECHNOLOGY, CREATED BY REPUBLIC ACT NUMBERED SEVEN HUNDRED AND SIXTY-THREE, FOR THE SCHOOL YEAR NINETEEN HUNDRED AND FIFTY-FOUR TO NINETEEN HUNDRED AND FIFTY-FIVE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sum of two hundred thousand pesos, or so much thereof as may be necessary, is hereby appropriated, out of any funds in the National Treasury not otherwise appropriated, for the establishment of the Mindanao Institute of Technology, created by Republic Act Numbered Seven hundred and sixty-three, for the school year nineteen hundred and fifty-four to nineteen hundred and fifty-five.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 10, 1954.

S. No. 196

[REPUBLIC ACT No. 999]

AN ACT TO AMEND SECTIONS ONE AND FIVE OF REPUBLIC ACT NUMBERED SIX HUNDRED THIRTEEN, OTHERWISE KNOWN AS THE EXPORT CONTROL LAW, AS REENACTED AND AMENDED BY REPUBLIC ACT NUMBERED EIGHT HUNDRED TWENTY-FOUR.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Republic Act Numbered Six hundred thirteen, otherwise known as the Export Control Law, is hereby further amended as follows:

"SECTION 1. In order to promote economic and industrial development and to safeguard national security, it shall be unlawful for any person, association or corporation to export, re-export or tranship to any point outside the Philippines uranium and other atomic energy materials, machineries and their spare parts, scrap metals, medicines, foodstuffs, abaca seedlings, gasoline, oil, lubricants and military equipment or supplies suitable for military use, and such other items as may be deemed essential for industrialization and economic development without a permit from the President which may be issued in accordance with the provisions of the next succeeding section."

SEC. 2. Section five of Republic Act Numbered Six hundred thirteen is hereby amended as follows:

"SEC. 5. The authority granted in this Act shall terminate on December thirty-one, nineteen hundred and fifty-six, unless sooner terminated by concurrent resolution of Congress, except that as to offenses committed, or rights or liabilities incurred prior to such repeal, the provisions of this Act and of the rules and regulations issued thereunder shall be treated as remaining in effect for the purpose of sustaining any suit, action, or prosecution with respect to such rights, liabilities or offenses."

SEC. 3. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 2190

[REPUBLIC ACT No. 1000]

AN ACT AUTHORIZING THE PRESIDENT OF THE PHILIPPINES TO ISSUE BONDS TO FINANCE PUBLIC WORKS AND PROJECTS FOR ECONOMIC DEVELOPMENT, AUTHORIZED BY LAW, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Upon the recommendation of the Secretary of Finance, after consultation with the Monetary Board, the National Economic Council, and the Council of State, the President of the Philippines is authorized to issue, preferably in the Philippines, or abroad if necessary, in the name and behalf of the Republic of the Philippines, bonds in an amount not exceeding one billion pesos to finance public works and self-liquidating projects for economic development, which may be authorized by law, including expropriation of lands for subdivision and resale to individuals, or to repay or service bonded obligations of the Government incurred for such projects: *Provided, however,* That no single issue shall exceed two hundred million pesos and that no further issue shall be made if eighty *per centum* of the immediately preceding issue has not been sold: *And provided, further,* That not more than twenty

per centum of any issue is spent for non-self-liquidating and non-revenue-producing projects. Investments in the self-liquidating projects in provinces, cities, and municipalities shall be limited by the paying capacity of the province, city or municipality to be certified by the Secretary of Finance: *Provided*, That the probable income from such projects shall be taken into consideration: *Provided, finally*, That not more than ten *per centum* of this bond issue shall be used to pay unserviced government obligations, loans and advances, secured or unsecured, guaranteed by the National Government, made by government owned or controlled financial institutions other than the Central Bank, to government political subdivisions, offices and instrumentalities, and/or other loans committed by government owned and/or controlled financial institutions, other than the Central Bank, guaranteed by the Government.

The bonds shall be issued in such amounts as will be needed at any one time taking into account the rate at which said bonds may be absorbed by the buying public and the fund requirements of projects ready for execution, and taking into consideration further a proper balance between productive and non-productive projects so that inflation shall be held to the minimum.

The Secretary of Finance, in consultation with the Monetary Board, shall prescribe the form, the rate of interests, the denominations, maturities, negotiability, convertibility, call and redemption features, and all other terms and conditions of issuance, placement, sale, servicing, redemption, and payment of all bonds issued under the authority of this Act.

The bonds issued under the authority of this section may be made payable both as to principal and interest, in Philippine currency or any readily convertible foreign currency.

Nothing in this section shall be interpreted to mean that the Secretary of Finance, in the redemption of securities, is prevented from applying the lottery principle by which bonds, drawn by lot, may be redeemed before maturity either at their face value or above.

The bonds to be issued under this Act shall be exempt from taxation, including the tax on foreign exchange, by the Government of the Republic of the Philippines or by any political or municipal subdivision thereof, which fact shall be stated on their face in accordance with this Act under which the said bonds are issued; and shall likewise be exempt from attachment, execution or seizure.

SEC. 2. A sinking fund shall be established in such manner that the total annual contributions thereto, accrued as at such rate of interest as may be determined by the Secretary of Finance in consultation with the Monetary Board, shall be sufficient to redeem at maturity the bonds issued under this Act. Said fund shall be under the custody of the Central Bank of the Philippines which shall invest the same in such manner as the Monetary Board may approve; shall charge all expenses of such investment to said sinking fund, and shall credit the same with the interest on investments and other income belonging to it.

SEC. 3. A standing annual appropriation is hereby made out of any general fund in the National Treasury of such sum as may be necessary to provide for the sinking fund

created in the next preceding section and for the interest on bonds issued by virtue of this Act: *Provided*, That such sinking fund and interest may be paid from special funds specifically created for certain public works projects when such projects are financed from the proceeds of the sale of bonds authorized to be issued under this Act: *Provided, further*, That in the case of revenue-producing projects such sinking fund and interest shall be paid from the net income of the project and in the case of toll roads and bridges from the net toll collections thereon: *Provided, still further*, That when such receipts or tolls are insufficient, only then shall the payment of said sinking fund and interest be paid or disbursed from the annual appropriation appropriated under this Act. A further appropriation is hereby made out of the same funds in the National Treasury not otherwise appropriated of a sufficient sum to cover the expenses of the issue and sale of the bonds authorized by this Act.

SEC. 4. The Secretary of Finance, or the Central Bank of the Philippines acting as his agent, may purchase such materials and equipment and may order the printing, engraving, advertising, soliciting, shipping, or the rendering of any other service which he considers to be necessary to the successful issuance, placement, sale, servicing, redemption, or payment of the bonds issued under the authority of this Act.

SEC. 5. A committee composed of three Senators and three Representatives to be appointed by the Presiding Officers of each House, respectively, is hereby constituted to look into the projects that may be included or added to the approved list of promulgated and programmed projects to be financed by the bond issues contemplated by this Act. The said committee is authorized to function during the recess of the Congress and shall submit its report of findings and recommendations to the Congress.

SEC. 6. The President of the Philippines shall submit to Congress not later than thirty days from the opening of Congress a yearly report on the progress made on the various projects financed by bond issues.

SEC. 7. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1867

[REPUBLIC ACT NO. 1001]

AN ACT EXTENDING THE AUTHORITY GRANTED
THE CLAVECILLA RADIO SYSTEM UNDER RE-
PUBLIC ACT NUMBERED FIVE HUNDRED
FIFTY-SIX.

*Be it enacted by the Senate and House of Representatives
of the Philippines in Congress assembled:*

SECTION 1. The authority granted the Clavecilla Radio System under Republic Act Numbered Five hundred fifty-six is hereby extended for a period of ten years from the date of its expiration under the same terms and conditions as those stated in the said Act.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1273

[REPUBLIC ACT No. 1002]

AN ACT PROVIDING THAT THE STREET IN THE CITY OF ZAMBOANGA AT PRESENT KNOWN AS BAILEN STREET, FROM ITS POINT OF INTERSECTION WITH IGNACIO MAGNO STREET TO THAT WITH GOVERNOR ALVAREZ AVENUE, SHALL HEREAFTER BE KNOWN AS LA PURISIMA STREET.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The street in the City of Zamboanga at present known as Bailen Street, from its point of intersection with Ignacio Magno Street to that with Governor Alvarez Avenue, shall hereafter be known as La Purisima Street.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

S. No. 39

[REPUBLIC ACT No. 1003]

AN ACT TO AMEND SECTION NINETY-THREE OF COMMONWEALTH ACT NUMBERED FOUR HUNDRED SIXTY-SIX KNOWN AS THE NATIONAL INTERNAL REVENUE CODE AS AMENDED.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section ninety-three of Commonwealth Act Numbered Four hundred sixty-six, otherwise known as the National Internal Revenue Code as amended, is hereby further amended to read as follows:

“SEC. 93. Returns—

(a) *Requirements.*—In all cases of inheritance or transfers subject to either the estate tax or the inheritance tax, or both, or where, though exempt from both taxes, the gross value of the estate exceeds three thousand pesos, the executor, administrator, or anyone of the heirs, as the case may be, shall file a return under oath in duplicate, setting forth (1) the value of the gross estate of the decedent at the time of his death, or, in case of a non-resident not a citizen of the Philippines of part of his gross estate in the Philippines; (2) the deductions allowed from gross estate in determining net estate as defined in section eighty-nine; (3) such part of such information as may at the time be ascertainable and such supplemental data as may be necessary to establish the correct taxes: *Provided, however,* That estate returns showing a gross value of fifty thousand pesos or more shall be accompanied with a statement of (1) itemized assets of the estate of the decedent with their corresponding gross value at the time of his death, or, in case of a nonresident not a citizen of the Philippines, of that part of his gross estate situated in the Philippines; (2) itemized deductions allowed from gross estate allowed in section eighty-nine; and, (3) the

amount of taxes due whether paid or still due and outstanding duly certified to by certified public accountants."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 371

[REPUBLIC ACT No. 1004]

AN ACT GRANTING TO RADIOWEALTH, INCORPORATED, A TEMPORARY PERMIT TO CONSTRUCT, INSTALL, ESTABLISH AND OPERATE PRIVATE FIXED POINT-TO-POINT AND PRIVATE BASE AND LAND MOBILE RADIO STATIONS FOR THE RECEPTION AND TRANSMISSION OF RADIO COMMUNICATIONS WITHIN THE PHILIPPINES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. There is hereby granted and conceded to Radiowealth, Inc., its successors or assigns, the right and privilege of constructing, installing, establishing and operating in the Philippines and at such places as the said person may select, subject to the approval of the Department Secretary under whose jurisdiction the Radio Control Division is functioning, or any competent authority who is or shall be authorized now or in the future, to give said approval, such private fixed point-to-point and private base and land mobile radio stations for the reception and transmission of wireless messages on radiotelephony, each station to consist of two or more radio apparatus comprising of receiving and sending radio apparatus for the purpose of maintaining communication regarding its industrial and/or agricultural activities or enterprises.

SEC. 2. The President of the Philippines shall have the power and authority to permit the location of said private fixed point-to-point radio stations or any of them on the public domain upon such terms as he may prescribe.

SEC. 3. This temporary permit shall continue to be in force during the time that the Government has not established similar service at places selected by the grantee, and is made upon the express condition that the same shall be void unless the construction of said stations be completed within one and one-half years from date of approval of this Act.

SEC. 4. Radiowealth, Inc., shall not engage in domestic business of telecommunications in the Philippines without further special assent of the Congress of the Philippines, it being understood that the purpose of this temporary permit is to secure the grantee the right to construct install, establish and operate private fixed point-to-point and private base and land mobile stations in places within the Philippines as the interest of its industrial and/or agricultural activities justify.

SEC. 5. A special right is hereby reserved to the President of the Republic of the Philippines in time of war, insurrection, public peril, calamity, disaster, or disturbance

of peace or order to cause the closing of any or all stations or to authorize the temporary use or possession thereof by any department of the Government, upon just compensation.

SEC. 6. No fees shall be charged by the grantee as the radio stations that may be established by virtue of this Act shall engage in communications regarding the grantee's business only.

SEC. 7. The grantee, its successors or assigns, shall hold the National, provincial and municipal governments of the Philippines harmless from all claims, accounts, demands, or actions arising out of accidents or injuries, whether to property or to persons caused by the construction or operation of the stations for reception and transmission of wireless messages by the grantee, its successors or assigns.

SEC. 8. The grantee, its successors or assigns, shall so construct and operate its radio stations as not to interfere with the operation of other radio stations maintained and operated in the Philippines.

SEC. 9. No private property shall be taken for any purpose by the grantee of this temporary permit, its successors or assigns, without proper condemnation proceedings and just compensation paid or tendered therein, and any authority to take and occupy land contained herein shall not authorize the taking, use, or occupation of any land except such as is required for the actual necessary purposes for which the temporary permit is granted. All lands or rights of use and occupation of lands granted to the grantee, its successors or assigns, shall, upon the termination of this temporary permit or upon its revocation or repeal, revert to the National, provincial or municipal government to which such land or right to use and occupy belonged at the time of the grant thereof or the right to use and occupy the same was conceded to the grantee herein, its successors or assigns.

SEC. 10. The grantee, its successors or assigns, shall be subject to the corporation laws of the Philippines now existing or which may hereafter be enacted.

SEC. 11. This temporary permit shall not be interpreted to mean as an exclusive grant of the privilege herein provided for and is granted subject to the condition that it shall be subject to amendment, alteration, or repeal by the Congress when the public interest so requires.

SEC. 12. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 581

[REPUBLIC ACT No. 1005]

AN ACT CHANGING THE NAME OF THE SITIO OF MAYAMOT, BARRIO OF BAÑGA, MUNICIPALITY OF PLARIDEL, PROVINCE OF BULACAN, TO BAGONG SILANG.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the Sitio of Mayamot in the Barrio of Bañga, Municipality of Plaridel, Province of Bulacan, is changed to Bagong Silang.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 582

[REPUBLIC ACT No. 1006]

AN ACT CREATING A SITIO IN THE EASTERN PART OF BARRIO TABANG, MUNICIPALITY OF PLARIDEL, PROVINCE OF BULACAN, TO BE KNOWN AS THE SITIO OF BAGONG SIKAT.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. A sitio in the eastern part of barrio Tabang, municipality of Plaridel, Province of Bulacan, is created to be known as the sitio of Bagong Sikat.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 669

[REPUBLIC ACT No. 1007]

AN ACT CHANGING THE NAME OF THE MUNICIPALITY OF DOÑA ALICIA, PROVINCE OF DAVAO, TO MABINI.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the municipality of Doña Alicia, Province of Davao, is changed to Mabini.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 791

[REPUBLIC ACT No. 1008]

AN ACT DEFINING THE BOUNDARIES OF THE MUNICIPALITY OF PADADA, PROVINCE OF DAVAO.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The boundaries of the municipality of Padada, Province of Davao, shall be as follows: On the North, the boundary line between the municipalities of Padada and Hagonoy shall be, from east to west, the Padada River from the Gulf of Davao to Km. 315 of the Digos-Malalag-Makar Road and a straight line along latitude 6° 42' from the said Km. 315 to the boundary line between the provinces of Davao and Cotabato; on the East, the boundary line of the municipality of Padada shall be the limit of the territorial waters of the said municipality in the Gulf of Davao; on the South, the boundary line between the municipalities of Padada and Malalag shall be, from east to west, the Balasinon

River from the Gulf of Davao to Km. 327 of the Digos-Malalag-Makar Road and a straight line along latitude 6° 36' from the said Km. 327 to the boundary line between the provinces of Davao and Cotabato; and on the West, the boundary line of the municipality of Padada shall be the boundary line between the provinces of Davao and Cotabato.

SEC. 2. The provisions of Executive Order Numbered Two hundred thirty-nine, series of nineteen hundred and forty-nine, of Executive Order Numbered Five hundred ninety-six, series of nineteen hundred and fifty-three, and of other executive orders which are inconsistent with the provisions of this Act are repealed.

SEC. 3. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 895

[REPUBLIC ACT NO. 1009]

AN ACT GRANTING THE MANILA YELLOW TAXI-CAB CO., INC., A TEMPORARY PERMIT TO CONSTRUCT, MAINTAIN AND OPERATE PRIVATE FIXED POINT-TO-POINT LAND BASED AND LAND MOBILE RADIO STATIONS FOR THE RECEPTION AND TRANSMISSION OF RADIO COMMUNICATIONS WITHIN THE PHILIPPINES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Subject to the provisions of the Constitution as well as of Act Numbered Three thousand eight hundred forty-six, entitled "An Act providing for the regulation of radio stations and radio communications in the Philippine Islands, and for other purposes"; Act Numbered Three thousand nine hundred ninety-seven, known as the Radio Broadcasting Law; Commonwealth Act Numbered One hundred forty-six, known as the Public Service Act, and their amendments, and other applicable laws, not inconsistent with this Act, there is hereby granted to the Manila Yellow Taxicab Co., Inc., its successors or assigns, a temporary permit to construct, maintain and operate in the Philippines, at such places as the said corporation may select and the Secretary of Public Works and Communications may approve, private fixed point-to-point land based and land mobile radio stations for the reception and transmission of wireless messages on radiotelegraphy or radiotelephony, each station to be provided with a radio transmitting apparatus and a radio receiving apparatus.

SEC. 2. This temporary permit shall continue to be in force during the time that the Government has not established similar service at the places selected by the grantee, its successors or assigns, and is granted upon the express condition that the same shall be void unless the construction or installation of said stations be begun within one year from the date of the approval of this Act and be completed within two years from said date.

SEC. 3. The grantee, its successors or assigns, shall not engage in domestic business of telecommunications in the Philippines without further special assent of the Con-

gress of the Philippines, it being understood that the purpose of this temporary permit is to secure to the grantee, its successors or assigns, the right to construct, install, maintain, and operate private fixed point-to-point, land based and land mobile radio stations in such places within the Philippines as the interest of the grantee may justify, and to enable it to better serve the public in the dissemination of news and events of national interest.

SEC. 4. No fees shall be charged by the grantee as the radio stations that may be established by virtue of this Act shall engage in communications regarding the grantee's business only.

SEC. 5. The grantee, its successors or assigns, shall so construct and operate its radio stations as not to interfere with the operations of other radio stations maintained and operated in the Philippines.

SEC. 6. The grantee, its successors or assigns, shall hold the national, provincial, city and municipal governments of the Philippines harmless from all claims, accounts, demands, or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of its radio stations.

SEC. 7. The grantee, its successors or assigns, shall be subject to the corporation laws of the Philippines now existing or hereafter enacted.

SEC. 8. The grantee, its successors or assigns, is authorized to operate its private fixed point-to-point, land based and land mobile radio stations in the medium frequency, high frequency, and very high frequency that may be assigned to it by the Secretary of Public Works and Communications.

SEC. 9. A special right is hereby reserved to the President of the Philippines in time of war, insurrection, public peril, calamity or disaster to cause the closing of the grantee's radio stations or to authorize the temporary use or possession thereof by any department of the Government upon just compensation.

SEC. 10. This temporary permit shall be subject to amendment, alteration, or repeal by the Congress of the Philippines when the public interest so requires, and shall not be interpreted as an exclusive grant of the privilege herein provided for.

SEC. 11. This Act shall take effect upon its approval.

Approved June 12, 1954.

H. No. 987

[REPUBLIC ACT NO. 1010]

AN ACT GRANTING MR. FELIX R. DEL ROSARIO
A TEMPORARY PERMIT TO CONSTRUCT, MAIN-
TAIN AND OPERATE A RADIO BROADCASTING
STATION IN BACOLOD CITY, PHILIPPINES.

*Be it enacted by the Senate and House of Representatives
of the Philippines in Congress assembled:*

SECTION 1. Subject to the provisions of the Constitution, as well as of Act Numbered Three thousand eight hundred forty-six, entitled "An Act providing for the regulation of radio stations and radio communications in the Philip-

pine Islands, and for other purposes"; Act Numbered Three thousand nine hundred ninety-seven, known as the Radio Broadcasting Law; Commonwealth Act Numbered One hundred forty-six, known as the Public Service Act, and their amendments, and other applicable laws, there is hereby granted to Mr. Felix R. del Rosario, hereinafter referred to as the "grantee", a temporary permit to construct, maintain and operate in Bacolod City, Philippines, subject to approval of the Secretary of Public Works and Communications, a radio broadcasting station or stations: *Provided*, That the holder of the temporary permit herein granted shall start the operation thereof within one and a half years from the approval of said temporary permit. Failure to comply with this requirement shall *ipso facto* cancel and void the temporary permit.

SEC. 2. After the grantee shall have operated under this temporary permit, the same shall continue to be in force during the time that the Government has not established similar service at the places selected by the grantee.

SEC. 3. (a) This temporary permit shall not take effect nor shall any powers thereunder be exercised by the grantee until the Secretary of Public Works and Communications shall have allotted to the grantee the frequencies and wave lengths to be used thereunder and determined the stations to and from which each such frequency and wave length may be used, and issued to the grantee a license for such use.

(b) The Secretary of Public Works and Communications, on reasonable notice to the grantee, may at any time change, or cancel, or modify, in whole or in part, any or all of the allotments of frequencies or wave lengths to be used. He may take such action: (1) whenever in his judgment such frequencies and wave lengths have been used, or there is danger that they will be used by the grantee to impair electrical communication, or stifle competition, or to obtain a monopoly in electrical communication, or to secure unreasonable rates for such communication, or otherwise to violate the laws or public policy of the Republic of the Philippines; (2) whenever in his judgment the public interests of the Philippines require that such frequencies or wave lengths should be used for other purposes than those of the grantee, either by the Government of the Philippines or by other individuals or corporations licensed by it; (3) whenever in his judgment for any reason the public interests of the Philippines so require.

(c) The Secretary of Public Works and Communications is authorized to appoint, employ or make use of such boards, commissions, or agents as in his discretion he may select, to investigate, and determine the facts upon which he may act as aforesaid, and such boards, commissions or agents shall have the right by compulsory process of *subpoena*, to summon witnesses, administer oaths, and take evidence.

SEC. 4. The stations of the grantee shall be so constructed and operated and the wave lengths so selected as to avoid interference with existing radio stations and to permit of the expansion of the grantee's services.

SEC. 5. A special right is reserved to the Government of the Republic of the Philippines, in time of war, insurrection, or rebellion, public calamity, disaster, or disturbance of peace and order to take over and operate the said stations upon the order and direction of the President of the Philippines.

SEC. 6. The right is hereby reserved to the Government of the Philippines, through the Public Service Commission, or such other office as may be thereunto duly authorized, to fix the maximum and minimum rates to be charged by the grantee.

SEC. 7. (a) The grantee shall be liable to pay the same taxes on its real estate, buildings, and personal property, exclusive of the temporary permit, as other persons or corporations are now or hereafter may be required by law to pay.

(b) The grantee shall further be liable to pay all other taxes under the National Internal Revenue Code by reason of this temporary permit.

SEC. 8. The national, provincial and municipal governments of the Philippines shall not be liable for all claims, accounts, demands, or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of the stations of the grantee, liability for which is assumed fully by the grantee.

SEC. 9. No private property shall be taken for any purpose by the grantee without proper condemnation proceedings and just compensation paid or tendered therefor, and any authority to take and occupy land contained herein shall not apply to the taking, use, or occupation of any land except such as is required for the actual necessary purposes for which this temporary permit is granted.

SEC. 10. It shall be unlawful for the grantee to use, employ, or contract, for the labor of persons held in involuntary servitude.

SEC. 11. The temporary permit hereby granted shall be subject to amendment, alteration, or repeal by the Congress of the Philippines, and the right to use or occupy public property and places hereby granted shall revert to the respective governments, upon the termination of this temporary permit, by repeal or by forfeiture, or expiration in due course.

SEC. 12. As a condition of the granting of this temporary permit the grantee shall execute a bond in favor of the Government of the Philippines, in the sum of ten thousand pesos in form and with sureties satisfactory to the Secretary of Public Works and Communications, conditioned upon the faithful performance of the grantee's obligations hereunder during the first three years of the life of this temporary permit. If, after three years from the date of acceptance of this temporary permit, the grantee shall have fulfilled said obligations or soon thereafter as the grantee shall have fulfilled the same, the bond aforesaid shall be cancelled by the Secretary of Public Works and Communications.

SEC. 13. Acceptance of this temporary permit shall be given in writing within six months after approval of

this Act. When so accepted by the grantee and upon the approval of the bond aforesaid by the Secretary of Public Works and Communications the grantee shall be empowered to exercise the privileges granted thereby.

SEC. 14. The grantee shall not lease, transfer, grant the usufruct of, sell or assign this temporary permit nor the rights and privileges acquired thereunder to any person, firm, company, corporation or other commercial or legal entity, nor merge with any company or corporation organized for the same purpose, without the approval of the Congress of the Philippines first had. Any corporation to which this temporary permit may be sold, transferred, or assigned, shall be subject to the corporation laws of the Philippines now existing or which may hereafter be enacted, and any person, firm, company, corporation or other commercial or legal entity to which this temporary permit is sold, transferred, or assigned shall be subject to all the conditions, terms, restrictions and limitations of this temporary permit as fully and completely and to the same extent as if the temporary permit has been originally granted to the said person, firm, company, corporation or other commercial or legal entity.

SEC. 15. This temporary permit shall not be interpreted to mean an exclusive grant of the privileges herein provided for.

SEC. 16. This temporary permit is likewise granted upon the express condition that the grantee shall contribute to the public welfare, shall assist in the functions of public information and education, shall conform to the ethics of honest enterprise, and shall not use its station for the dissemination of deliberately false information or willful misrepresentation, or to the detriment of the public health, or to incite, encourage or assist in subversive or treasonable acts. The grantee shall not require any previous censorship of any speech, play or other matter to be broadcast from its stations; but if any such speech, play or other matter should constitute a violation of the law or infringement of a private right, the grantee shall be free from any liability, civil or criminal, for such speech, play or other matter: *Provided*, That the grantee, during any broadcast shall cut off from the air the speech, play or other matter being broadcast if the tendency thereof is to propose and/or incite treason, rebellion or sedition, or the language used therein or the theme thereof is indecent or immoral, and willful failure to do so shall constitute a valid cause for the cancellation of this permit.

SEC. 17. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1012

[REPUBLIC ACT No. 1011]

AN ACT CREATING THE BARRIO OF NASUMI IN THE MUNICIPALITY OF DINGLE, PROVINCE OF ILOILO.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitio of Nasumi in the municipality of Dingle, Province of Iloilo, is hereby converted into a new barrio in the same municipality to be known as the barrio of Nasumi.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1035

[REPUBLIC ACT NO. 1012]

AN ACT CREATING THE BARRIO OF SAMARINIANA,
IN THE MUNICIPALITY OF BROOKE'S POINT,
PROVINCE OF PALAWAN.

*Be it enacted by the Senate and House of Representatives
of the Philippines in Congress assembled:*

SECTION 1. Such part of the barrio of Tanionbog, municipality of Brooke's Point, Province of Palawan, as bounded on the North by the Tamlang River, with this boundary following the natural course of the Tamlang River up to the mountain; on the West by mountain divide, with this boundary to follow the mountain divide; on the East by the seashore facing the Sulu Sea; and on the South by the Cabcaben River, with this boundary to follow the Cabcaben River from the seashore to the mountain, is hereby segregated from said barrio and constituted into an independent barrio to be known as Samariniana.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1095

[REPUBLIC ACT NO. 1013]

AN ACT GRANTING TO FRANCISCO QUISUMBING,
DOING BUSINESS UNDER THE FIRM NAME OF
THE DOLLAR TAXI A TEMPORARY PERMIT TO
CONSTRUCT, MAINTAIN AND OPERATE PRI-
VATE BASE STATIONS FOR LAND MOBILE
SERVICE IN THE PHILIPPINES.

*Be it enacted by the Senate and House of Representatives
of the Philippines in Congress assembled:*

SECTION 1. There is hereby granted to Francisco Quisumbing, doing business under the firm name of the Dollar Taxi, or his successor, a temporary permit to construct, maintain and operate in the terminal office of the Dollar Taxi in the City of Manila and in such other places in the Philippines where the grantee is allowed to do business by virtue of a certificate of public convenience granted him as may be selected by the grantee, subject to the approval of the Secretary of Public Works and Communications, private base stations, together with the corresponding land mobile stations, for the transmission and reception of messages in radio telephony.

SEC. 2. This temporary permit shall continue to be in force during the time that the Government has not established similar service at the places selected by the

grantee, and is granted upon the express condition that the same shall be void unless the grantee shall start the operation of the said stations within one year from the date of approval of this Act.

SEC. 3. The grantee shall not engage in domestic business of telecommunications in the Philippines without further special assent of the Congress of the Philippines, it being understood that the purpose of this temporary permit is to secure to the grantee the right to construct, install, maintain and operate private fixed base stations within the Philippines where the grantee is allowed to do business by virtue of a certificate of public convenience granted him as the interest of the company and of its trade and business may justify.

SEC. 4. No fees shall be charged by the grantee, as the radio base stations, that may be established by virtue of this Act, shall engage in communications with its own land mobile stations regarding the grantee's business only.

SEC. 5. The grantee shall so construct and operate its radio base stations as not to interfere with the operation of other radio stations maintained and operated in the Philippines.

SEC. 6. The grantee is authorized to operate its private base stations on the frequency and/or frequencies that may be assigned to it by the Secretary of Public Works and Communications.

SEC. 7. A special right is hereby reserved to the President of the Philippines in time of war, insurrection, public peril, calamity, or disaster to cause the closing of the grantee's radio stations or to authorize the temporary use or possession thereof by any department of the government, upon just compensation.

SEC. 8. This temporary permit shall be subject to amendment, alteration, or repeal by the Congress of the Philippines when the public interest so requires, and shall not be interpreted as an exclusive grant of the privilege herein provided for.

SEC. 9. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1126

[REPUBLIC ACT NO. 1014]

AN ACT CREATING THE BARRIO OF YABAWON IN THE MUNICIPALITY OF JONES, PROVINCE OF ROMBLON.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitios known as Mahaba, Angomon, Solocan, Kapanranan and Yabawon in the municipality of Jones, Province of Romblon, are hereby constituted into a separate and independent barrio to be known as the barrio of Yabawon.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1139

[REPUBLIC ACT No. 1015]

AN ACT GRANTING THE RADIO ELECTRONIC HEADQUARTERS, INC., A TEMPORARY PERMIT TO CONSTRUCT, MAINTAIN AND OPERATE PRIVATE FIXED POINT-TO-POINT AND LAND BASED AND LAND MOBILE RADIO STATIONS FOR THE RECEPTION AND TRANSMISSION OF RADIO COMMUNICATIONS WITHIN THE PHILIPPINES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. There is hereby granted to the Radio Electronic Headquarters, Inc., its successors or assigns, a temporary permit to construct, maintain and operate in the Philippines, at such places as the said corporation may select, subject to the approval of the Secretary of Public Works and Communications, private fixed point-to-point and land based and land mobile radio stations for the reception and transmission of wireless messages on radiotelegraphy or radiotelephony, each station to be provided with a radio transmitting apparatus and a radio receiving apparatus.

SEC. 2. This temporary permit shall continue to be in force during the time that the Government has not established similar service at the places selected by the grantee, and is granted upon the express condition that the same shall be void unless the construction or installation of said stations be begun within one year from the date of the approval of this Act and be completed within two years from said date.

SEC. 3. The grantee, its successors or assigns, shall not engage in domestic business of telecommunications in the Philippines without further special assent of the Congress of the Philippines, it being understood that the purpose of this temporary permit is to secure to the grantee the right to construct, install, maintain, and operate private fixed point-to-point, land based and land mobile radio stations in such places within the Philippines as the interest of the grantee may justify, and to enable it to better serve the public in the dissemination of news and events of national interest.

SEC. 4. No fees shall be charged by the grantee as the radio stations that may be established by virtue of this Act shall engage in communications regarding the grantee's business only.

SEC. 5. The grantee, its successors or assigns, shall so construct and operate its radio stations as not to interfere with the operation of other radio stations maintained and operated in the Philippines.

SEC. 6. The grantee, its successors or assigns, shall hold the National, provincial, city and municipal governments of the Philippines harmless from all claims, accounts, demands, or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of its radio stations.

SEC. 7. The grantee, its successors or assigns, shall be subject to the corporation laws of the Philippines now existing or hereafter enacted.

SEC. 8. The grantee, its successors or assigns, is authorized to operate its private fixed point-to-point, land based and land mobile radio stations in the medium frequency, high frequency, and very high frequency that may be assigned to it by the Secretary of Public Works and Communications.

SEC. 9. A special right is hereby reserved to the President of the Philippines in time of war, insurrection, public peril, calamity or disaster to cause the closing of the grantee's radio stations or to authorize the temporary use or possession thereof by any department of the Government upon just compensation.

SEC. 10. This temporary permit shall be subject to amendment, alteration, or repeal by the Congress of the Philippines when the public interest so requires, and shall not be interpreted as an exclusive grant of the privilege herein provided for.

SEC. 11. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1218

[REPUBLIC ACT NO. 1016]

AN ACT GRANTING ANDRES CABALLERO A FRANCHISE FOR AN ELECTRIC LIGHT, HEAT AND POWER SYSTEM IN THE MUNICIPALITY OF PANTUKAN, PROVINCE OF DAVAO.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Subject to the terms and conditions established in Act Numbered Thirty-six hundred and thirty-six, as amended by Commonwealth Act Numbered One hundred and thirty-two, and to the provisions of the Constitution, there is granted to Andres Caballero, for a period of twenty-five years from the approval of this Act, the right, privilege, and authority to construct, maintain, and operate an electric light, heat and power system for the purpose of generating and distributing electric light, heat, and/or power for sale within the municipality of Pantukan, Province of Davao.

SEC. 2. In the event that the grantee shall purchase and secure from the National Power Corporation electric heat and power, the National Power Corporation is hereby authorized to negotiate and transact for the benefit and in behalf of the public consumers with reference to rates.

SEC. 3. It is expressly provided that in the event the Government should desire to maintain and operate for itself the system and enterprise herein authorized, the grantee shall surrender his franchise and will turn over to the Government all serviceable equipment therein, at cost, less reasonable depreciation.

SEC. 4. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1221

[REPUBLIC ACT No. 1017]

AN ACT GRANTING ALFREDO L. NOEL A FRANCHISE FOR AN ELECTRIC LIGHT, HEAT AND POWER SYSTEM IN THE MUNICIPALITY OF COMPOSTELA, PROVINCE OF DAVAO.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Subject to the terms and conditions established in Act Numbered Thirty-six hundred and thirty-six, as amended by Commonwealth Act Numbered One hundred and distributing electric light, heat, and/or power for there is granted to Alfredo L. Noel, for a period of twenty-five years from the approval of this Act, the right, privilege, and thirty-two, and to the provisions of the Constitution, light, heat and power system for the purpose of generating and authority to construct, maintain, and operate an electric sale within the municipality of Compostela, Province of Davao.

SEC. 2. In the event that the grantee shall purchase and secure from the National Power Corporation electric heat and power, the National Power Corporation is hereby authorized to negotiate and transact for the benefit and in behalf of the public consumers with reference to rates.

SEC. 3. It is expressly provided that in the event the Government should desire to maintain and operate for itself the system and enterprise herein authorized, the grantee shall surrender his franchise and will turn over to the Government all serviceable equipment therein, at cost, less reasonable depreciation.

SEC. 4. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1342

[REPUBLIC ACT No. 1018]

AN ACT GRANTING THE ANG TIBAY, INC., A TEMPORARY PERMIT TO CONSTRUCT, MAINTAIN AND OPERATE PRIVATE FIXED POINT-TO-POINT AND LAND BASED AND LAND MOBILE RADIO STATIONS FOR THE RECEPTION AND TRANSMISSION OF RADIO COMMUNICATIONS WITHIN THE PHILIPPINES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. There is hereby granted to the Ang Tibay, Inc., its successors or assigns, a temporary permit to construct, maintain and operate in the Philippines, at such places as the said corporation may select, subject to the approval of the Secretary of Public Works and Communications, private fixed point-to-point and land based and land mobile radio stations for the reception and transmission of wireless messages on radiotelegraphy or radiotelephony, each station to be provided with radio transmitting apparatus and a radio receiving apparatus.

SEC. 2. This temporary permit shall continue to be in force during the time that the Government has not estab-

lished similar service at the places selected by the grantee, and is granted upon the express condition that the same shall be void unless the construction or installation of said stations be begun within one year from the date of the approval of this Act and be completed within two years from said date.

SEC. 3. The grantee, its successors or assigns, shall not engage in domestic business of telecommunications in the Philippines, it being understood that the purpose of this temporary permit is to secure to the grantee the right to construct, install, maintain, and operate private fixed point-to-point and land based and land mobile radio stations in such places within the Philippines as the interest of the grantee may justify.

SEC. 4. No fees shall be charged by the grantee as the radio stations that may be established by virtue of this Act shall engage in communications regarding the grantee's business only.

SEC. 5. The grantee, its successors or assigns, shall so construct and operate its radio stations as not to interfere with the operation of other radio stations maintained and operated in the Philippines.

SEC. 6. The grantee, its successors or assigns, shall hold the national, provincial, city and municipal governments of the Philippines harmless from all claims, accounts, demands, or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of its radio stations.

SEC. 7. The grantee, its successors or assigns, shall be subject to the corporation laws of the Philippines now existing or which may hereafter be enacted.

SEC. 8. The grantee, its successors or assigns, is authorized to operate its private fixed point-to-point and land based and land mobile radio stations in the medium frequency, high frequency, and very high frequency that may be assigned to it by the Secretary of Public Works and Communications.

SEC. 9. A special right is hereby reserved to the President of the Philippines in time of war, insurrection, public peril, calamity or disaster to cause the closing of the grantee's radio stations or to authorize the temporary use or possession thereof by any department of the Government, upon just compensation.

SEC. 10. This temporary permit shall be subject to amendment, alteration, or repeal by the Congress of the Philippines when the public interest so requires, and shall not be interpreted as an exclusive grant of the privilege herein provided for.

SEC. 11. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1368

[REPUBLIC ACT NO. 1019]

AN ACT GRANTING THE NATIONAL TEACHERS COLLEGE A FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE A RADIO BROADCASTING STATION IN THE CITY OF MANILA FOR EDUCATIONAL PURPOSES.

*Be it enacted by the Senate and House of Representatives
of the Philippines in Congress assembled:*

SECTION 1. Subject to the provisions of the Constitution, as well as of Act Numbered Three thousand eight hundred forty-six, entitled "An Act providing for the regulation of radio stations and radio communications in the Philippine Islands, and for other purposes"; Act Numbered Three thousand nine hundred ninety-seven, known as the Radio Broadcasting Law; Commonwealth Act Numbered One hundred forty-six, known as the Public Service Act and their amendments, and other applicable laws, not inconsistent with this Act, the National Teachers College is hereby granted a franchise to construct, maintain and operate, for educational purposes and in the public interest, a radio broadcasting station in the City of Manila.

SEC. 2. This franchise shall continue for a period of twenty-five years from the date the said station shall be put in operation, and is granted upon the express condition that the same shall be void unless the construction of said station be begun within six months from the date of approval of this Act and be completed within two years from said date.

SEC. 3. This franchise is likewise made upon the express condition that the grantee shall contribute to the public welfare, shall assist in the functions of public information and education, shall conform to the ethics of honest enterprise, and shall not use its station for the dissemination of deliberately false information or willful misrepresentation, or to the detriment of public health, or to incite, encourage or assist in subversive or treasonable acts.

SEC. 4. The grantee's radio broadcasting station shall not be put in actual operation until the Secretary of Public Works and Communications shall have allotted to the grantee the frequency and wave length to be used under this franchise and issued to the grantee a license for such use.

SEC. 5. The radio broadcasting station of the grantee shall be so constructed and operated and the wave length so selected as to avoid interference with existing radio stations and to permit of the expansion of the grantee's services.

SEC. 6. A special right is reserved to the President of the Philippines, in time of war, rebellion, public peril, calamity, disaster or disturbance of peace or order, to cause the closing of the said station or to authorize the temporary use and operation thereof by any department of the Government without compensating the grantee for the use of said station during the period when they shall be so operated.

SEC. 7. The grantee shall be liable to pay the same taxes, unless exempted therefrom, on its real estate, buildings and personal property, exclusive of the franchise, as other persons or corporations are now or hereafter may be required by law to pay.

SEC. 8. The franchise hereby granted shall be subject to amendment, alteration, or repeal by the Congress of the Philippines when the public interest so requires.

SEC. 9. Acceptance of this franchise shall be given in writing by the grantee within six months after the

approval of this Act. When so accepted, the grantee shall be empowered to exercise the privileges granted thereby.

SEC. 10. The grantee shall not lease, transfer, grant the usufruct of, sell or assign this franchise nor the rights and privileges acquired thereunder to any person, firm, company, corporation or other commercial or legal entity, nor merge with any other company or corporation organized for the same purpose, without the approval of the Congress of the Philippines first had. Any corporation to which this franchise may be sold, transferred, or assigned shall be subject to the corporation laws of the Philippines now existing or hereafter enacted, and any person, firm, company, corporation or other commercial or legal entity to which this franchise is sold, transferred or assigned shall be subject to all conditions, terms, restrictions and limitations of this franchise as fully and completely and to the same extent as if the franchise had been originally granted to the said person, firm, company, corporation or other commercial or legal entity.

SEC. 11. This franchise shall not be interpreted as an exclusive grant of the privileges herein provided for.

SEC. 12. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1388

[REPUBLIC ACT NO. 1020]

AN ACT TO CREATE THE MUNICIPALITY OF LINAPACAN IN THE PROVINCE OF PALAWAN

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The islands of Linapacan, Cabunlaoan, Niañgalao, Decabayotot, Calibanbangan, Pical, and Baranganon are hereby separated from the municipality of Coron, Province of Palawan, and constituted into a municipality to be known as the municipality of Linapacan with the seat of government in the barrio of San Miguel in the island of Linapacan.

SEC. 2. The elective officials of the new municipality shall be appointed by the President of the Philippines and shall hold office until their successors shall have been elected and shall have qualified.

SEC. 3. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1391

[REPUBLIC ACT NO. 1021]

AN ACT CHANGING THE NAME OF THE SINISIAN ELEMENTARY SCHOOL IN THE MUNICIPALITY OF CALACA, PROVINCE OF BATANGAS, TO PEDRO A. PATERNO ELEMENTARY SCHOOL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the Sinisian Elementary School in the municipality of Calaca, Province of Batangas, is

hereby changed to Pedro A. Paterno Elementary School, in honor of the patriot, Don Pedro A. Paterno.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1415

[REPUBLIC ACT No. 1022]

AN ACT CHANGING THE NAME OF THE SASA ELEMENTARY SCHOOL IN THE CITY OF DAVAO TO FRANCISCO BANGOY ELEMENTARY SCHOOL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The Sasa Elementary School in the City of Davao shall hereafter be known as the Francisco Bangoy Elementary School.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1434

[REPUBLIC ACT No. 1023]

AN ACT TO NAME THE PUBLIC PLAZA OF THE DISTRICT OF MANDURRIAO, CITY OF ILOILO, SERAPION C. TORRE PARK.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The public plaza of the district of Mandurriao, City of Iloilo, shall hereafter be known as Serapion C. Torre Park.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1625

[REPUBLIC ACT No. 1024]

AN ACT CHANGING THE NAME OF PAMPANGA ELEMENTARY SCHOOL IN THE CITY OF DAVAO TO VICENTE HIZON MEMORIAL SCHOOL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The Pampanga Elementary School in the City of Davao shall hereafter be known as the Vicente Hizon Memorial School.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1678

[REPUBLIC ACT No. 1025]

AN ACT CONVERTING THE SITIO OF CASA REAL IN THE MUNICIPALITY OF PAKIL, PROVINCE OF LAGUNA, TO A BARRIO TO BE KNOWN AS BARRIO CASA REAL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitio of Casa Real in the municipality of Pakil, Province of Laguna, is hereby converted to a barrio to be known as barrio Casa Real.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1679

[REPUBLIC ACT No. 1026]

AN ACT CONVERTING THE SITIO OF CASINSIN IN THE MUNICIPALITY OF PAKIL, PROVINCE OF LAGUNA, TO A BARRIO TO BE KNOWN AS BARRIO CASINSIN.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitio of Casinsin in the municipality of Pakil, Province of Laguna, is hereby converted to a barrio to be known as barrio Casinsin.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1680

[REPUBLIC ACT No. 1027]

AN ACT CONVERTING THE SITIO OF KABULUSAN IN THE MUNICIPALITY OF PAKIL, PROVINCE OF LAGUNA, TO A BARRIO TO BE KNOWN AS BARRIO KABULUSAN.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitio of Kabulusan in the municipality of Pakil, Province of Laguna, is hereby converted to a barrio to be known as barrio Kabulusan.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1701

[REPUBLIC ACT No. 1028]

AN ACT TO CONVERT THE SITIO OF CARAYAT, IN THE MUNICIPALITY OF PRIETO DIAZ, PROVINCE OF SORSOGON, INTO A BARRIO.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitio of Carayat, in the municipality of Prieto Diaz, Province of Sorsogon, is hereby converted into a barrio.

Sec. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1744

[REPUBLIC ACT No. 1029]

AN ACT TO CHANGE THE NAME OF BARRIO BALAYANG, MABINI, PANGASINAN, TO BARRIO LUNA.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of barrio Balayang, Mabini, Pangasinan, is hereby changed to barrio Luna.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1750

[REPUBLIC ACT No. 1030]

AN ACT TO CHANGE THE NAME OF THE NAGCARLAN ELEMENTARY SCHOOL IN NAGCARLAN, PROVINCE OF LAGUNA, TO CRISANTO GUYSAYKO MEMORIAL ELEMENTARY SCHOOL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. In recognition of the only son of Nagcarlan, Province of Laguna, who became three times Congressman from the second district of the Province of Laguna, the name of Nagcarlan Elementary School in Nagcarlan, Province of Laguna, is hereby changed to Crisanto Guysayko Memorial Elementary School.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1780

[REPUBLIC ACT No. 1031]

AN ACT APPROPRIATING THE SUM OF THREE HUNDRED THOUSAND PESOS AS AID TO THE PHILIPPINE TUBERCULOSIS SOCIETY.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sum of three hundred thousand pesos is appropriated, out of any funds in the National Treasury not otherwise appropriated, as aid to the Philippine Tuberculosis Society with the condition that the said sum shall be used exclusively by the Quezon Institute for the following purposes:

(1) For the improvement of its kitchen, including the purchase of equipment	P100,000.00
(2) For the construction of a laundry plant	120,000.00
(3) For the construction of a garbage incinerator	80,000.00
Total	P300,000.00

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1782

[REPUBLIC ACT No. 1032]

AN ACT CHANGING THE NAME OF THE MUNICIPALITY OF SAN JACINTO, PROVINCE OF BOHOL, TO CATIGBI-AN.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the municipality of San Jacinto, Province of Bohol, is changed to Catigbi-an.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1804

[REPUBLIC ACT No. 1033]

AN ACT CHANGING THE NAME OF THE BARRIO OF ONDOL IN THE MUNICIPALITY OF MABINI, PROVINCE OF BOHOL, TO SAN JOSE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the barrio of Ondol in the municipality of Mabini, Province of Bohol, is hereby changed to San Jose.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1811

[REPUBLIC ACT No. 1034]

AN ACT CHANGING THE NAME OF THE BARRIO OF BANAWA, IN THE MUNICIPALITY OF KABAGAN, PROVINCE OF COTABATO, TO BANAWAG.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the barrio of Banawa, in the municipality of Kabagan, Province of Cotabato, is hereby changed to that of Banawag.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1812

[REPUBLIC ACT No. 1035]

AN ACT CHANGING THE NAME OF THE MUNICIPALITY OF DULAWAN IN THE PROVINCE OF COTABATO TO DATU PIANG.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the municipality of Dulawan in the Province of Cotabato is hereby changed to Datu Piang.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1823

[REPUBLIC ACT No. 1036]

AN ACT TO CHANGE THE NAME OF THE NAIKIT COMMUNITY SCHOOL IN THE BARRIO OF BULAUAN, MUNICIPALITY OF PRIETO DIAZ, PROVINCE OF SORSOGON, TO BULAUAN COMMUNITY SCHOOL.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The name of the Naipit Community School in the barrio of Bulauan, municipality of Prieto Diaz, Province of Sorsogon, is hereby changed to Bulauan Community School.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1845

[REPUBLIC ACT No. 1037]

AN ACT GRANTING LA MALLORCA, A TEMPORARY PERMIT TO CONSTRUCT, MAINTAIN AND OPERATE PRIVATE FIXED POINT-TO-POINT AND LAND BASED AND LAND MOBILE RADIO STATIONS FOR THE RECEPTION AND TRANSMISSION OF RADIO COMMUNICATIONS WITHIN THE PHILIPPINES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. There is hereby granted to La Mallorca, its successors or assigns, a temporary permit to construct, maintain and operate in the Philippines, at San Fernando, Pampanga and at such places as the said co-partnership may select, subject to the approval of the Secretary of Public Works and Communications, private fixed point-to-point and land based and land mobile radio stations for the reception and transmission of wireless messages on radiotelegraphy or radiotelephony, each station to be provided with a radio transmitting apparatus and a radio receiving apparatus.

SEC. 2. This temporary permit shall continue to be in force during the time that the Government has not established similar service at the places selected by the grantee, and is granted upon the express condition that the same shall be void unless the construction or installation of said stations be begun within one year from the date of the approval of this Act and be completed within two years from said date.

SEC. 3. The grantee, its successors or assigns, shall not engage in domestic business of telecommunications in the Philippines without further special assent of the Congress of the Philippines, it being understood that the purpose of this temporary permit is to secure to the grantee the right to construct, install, maintain, and operate private fixed point-to-point and land based and land mobile radio stations in such places within the Philippines as the interest of the grantee may justify, as well as to enable

it to better serve the public in the dissemination of news and events of national interest.

SEC. 4. No fees shall be charged by the grantee as the radio stations that may be established by virtue of this Act shall engage in communications regarding the grantee's business only.

SEC. 5. The grantee, its successors or assigns, shall so construct and operate its radio stations as not to interfere with the operation of other radio stations maintained and operated in the Philippines.

SEC. 6. The grantee, its successors or assigns, shall hold the National, provincial, city and municipal governments of the Philippines harmless from all claims, accounts, demands, or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of its radio stations.

SEC. 7. The grantee, its successors or assigns, shall be subject to the corporation laws of the Philippines now existing or hereafter enacted.

SEC. 8. The grantee, its successor's or assigns, is authorized to operate its private fixed point-to-point and land based and land mobile radio stations in the medium frequency, high frequency, and very high frequency that may be assigned to it by the Secretary of Public Works and Communications.

SEC. 9. A special right is hereby reserved to the President of the Philippines in time of war, insurrection, public peril, calamity or disaster to cause the closing of the grantee's radio stations or to authorize the temporary use or possession thereof by any department of the Government upon just compensation.

SEC. 10. This temporary permit shall be subject to amendment, alteration, or repeal by the Congress of the Philippines when the public interest so requires, and shall not be interpreted as an exclusive grant of the privilege herein provided for.

SEC. 11. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1858

[REPUBLIC ACT NO. 1038]

AN ACT FIXING THE BOUNDARY OF THE MUNICIPALITIES OF BAGAMANOC AND PANGANIBAN, PROVINCE OF CATANDUANES, IN ACCORDANCE WITH THE AGREEMENT BETWEEN SAID MUNICIPALITIES MADE ON JUNE TWELVE, NINETEEN HUNDRED FIFTY-TWO, AND APPROVED BY THE PROVINCIAL BOARD OF SAID PROVINCE ON JULY TWELVE, NINETEEN HUNDRED FIFTY-TWO IN ITS RESOLUTION NUMBERED ONE HUNDRED TWENTY-THREE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The boundary of the municipalities of Bagamanoc and Panganiban, Province of Catanduanes, as agreed upon between their respective municipal councils

on June twelve, nineteen hundred fifty-two, and approved by the Provincial Board of said province, on July twelve, nineteen hundred fifty-two, shall be as follows:

The boundary in Panay Island between the municipalities of Bagamanoc and Panganiban is a straight line from Amontol Point to Tubigmanoc. The territory west of the line belongs to the former municipality and the territory east of the line belongs to the latter. The boundary in Panganiban Bay is a straight line from Amontol Point to the mouth of the Pangcayanan Creek. The territory northwest of the line belongs to the former and the territory southwest of the line belongs to the latter. The boundary in the mainland of said municipalities extends from the mouth of Pangcayanan Creek following the natural course of said creek up to the concrete culvert and from that point a straight line to sitio Inacban: *Provided*, That sitio Inacban belongs to the municipality of Panganiban.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1901

[REPUBLIC ACT No. 1039]

AN ACT GRANTING THE KENRAM (PHIL.), INCORPORATED, A TEMPORARY PERMIT TO CONSTRUCT, MAINTAIN AND OPERATE PRIVATE FIXED POINT-TO-POINT RADIO STATIONS FOR THE RECEPTION AND TRANSMISSION OF RADIO COMMUNICATIONS WITHIN THE PHILIPPINES.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. There is hereby granted to the Kenram (Phil.), Incorporated, its successors or assigns, a temporary permit to construct, maintain and operate in the Philippines, at such places as the said company may select, subject to the approval of the Department Secretary under whose jurisdiction the Radio Control Division is functioning, or any competent authority who is or shall be authorized to give said approval, such private fixed point-to-point and land-based radio stations for the reception and transmission of wireless messages on radiotelegraphy or radiotelephony, each station to consist of two radio apparatus comprising of a receiving and sending radio apparatus.

SEC. 2. The President of the Republic of the Philippines shall have the power and authority to permit the location of said private fixed point-to-point and land-based radio stations or any of them on the public domain upon such terms as may be prescribed.

SEC. 3. This temporary permit shall continue to be in force during the time that the Government has not established similar service at the places selected by the grantee, and is granted upon the express condition that the same shall be void unless the grantee shall start operation of said stations within one and one-half years from the date of approval of this Act.

SEC. 4. The grantee shall not engage in domestic business of telecommunications in the Philippines without

further special assent of the Congress of the Philippines, it being understood that the purpose of this temporary permit is to secure to the grantee the right to construct, install, establish and operate private fixed point-to-point and land-based radio stations in places within the Philippines as the interest of the company and its trade and business may justify.

SEC. 5. A special right is hereby reserved to the President of the Republic of the Philippines in time of war, insurrection, public peril, calamity, or disturbance of peace or order, to cause the closing of the station or stations, or to authorize the temporary use or possession thereof by any department of the Government upon just compensation.

SEC. 6. No fees shall be charged by the grantee as the radio stations that may be established by virtue of this Act shall engage in communications regarding the grantee's business only.

SEC. 7. The grantee, its successors or assigns, shall so construct and operate its radio stations as not to interfere with the operation of other radio stations maintained and operated in the Philippines.

SEC. 8. The grantee, its successors or assigns, shall hold the national, provincial, city and municipal governments of the Philippines harmless from all claims, accounts, demands or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of its radio stations.

SEC. 9. The grantee, its successors or assigns, shall be subject to the Corporation Law of the Philippines now existing or hereafter enacted.

SEC. 10. The grantee, its successors or assigns, is authorized to operate its private fixed point-to-point radio stations in the medium frequency, high frequency and very high frequency that may be assigned to it by the licensing authority.

SEC. 11. This temporary permit shall be subject to amendment, alteration, or repeal by the Congress of the Philippines when the public interest so requires, and shall not be interpreted as an exclusive grant of the privilege herein provided for.

SEC. 12. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1914

[REPUBLIC ACT NO. 1040]

AN ACT TO CONVERT THE SITIO OF JIPIT, IN THE BARRIO OF SAN ANTONIO, MUNICIPALITY OF BAUAN, PROVINCE OF BATANGAS, INTO A BARRIO TO BE KNOWN AS THE BARRIO OF STO. NIÑO.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitio of Jipit in the barrio of San Antonio, municipality of Bauan, Province of Batangas, is

converted into a barrio to be known as the barrio of Sto. Niño.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1916

[REPUBLIC ACT No. 1041]

AN ACT TO CONVERT THE SITIO OF POOK NI BANAL IN THE BARRIO OF MALAKING POOK, MUNICIPALITY OF BAUAN, PROVINCE OF BATANGAS, INTO A BARRIO.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitio of Pook ni Banal in the barrio of Malaking Pook, municipality of Bauan, Province of Batangas, is converted into a barrio to be known as the barrio of Pook ni Banal.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

H. No. 1926

[REPUBLIC ACT No. 1042]

AN ACT TO CREATE THE BARRIO OF BADONG IN THE MUNICIPALITY OF TAGO, PROVINCE OF SURIGAO.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. The sitio of Badong in the municipality of Tago, Province of Surigao, is hereby constituted into a barrio in the said municipality to be known as the barrio of Badong.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 12, 1954.

DEPARTMENT AND BUREAU ADMINISTRATIVE ORDERS AND REGULATIONS

Executive Office

PROVINCIAL CIRCULAR
(Unnumbered)

May 20, 1954

EXTENDING THE DATE FOR THE FILING OF APPLICATIONS OF PRISONER OF WAR CLAIMS TO AUGUST 1, 1954.

To all Provincial Governors and City Mayors:

In formation has been received in this office from the War Claims Commission, Philippine Office, that the time limit for filing prisoner of war claims was extended to August 1, 1954, by Public Law 359, which was approved and signed by the President of the United States on May 13, 1954.

Under the law just mentioned, members of the military or naval forces of the United States, who were prisoners of war during World War II, are eligible for compensation on account of forced uncompensated labor and/or inhumane treatment. Only ex-prisoners of war who were members of the organized Philippine Army of the government of the Commonwealth of the Philippines and other units (USAFFE), called or ordered into service of the armed forces of the United States by valid orders on or before May 7, 1942, are eligible to file claims. Guerrilla service, even if recognized, does not constitute service with the military or naval forces of the United States for the purpose of awarding compensation under the provisions of the War Claims Act of 1948, as amended. Compensation is computed at the rate of P3 per day for each day of imprisonment.

Survivors of deceased Philippine Army or USAFFE ex-prisoners of war, such as widow, widow and children, children if there is no surviving widow, parents of the deceased prisoner of war if there is no widow or surviving children, are also eligible to file claims.

The War Claims Commission has announced that Mr. Thomas C. Fisher represents the Commission and will be in charge of the distribution of claim applications in the Philippines. These claim applications will be distributed only through the Task Force in Manila, under the direction of Mr. Fisher, and are free of charge. They will not be released

for distribution by any government agency in the Philippines. Eligible claimants are urged to request for the official claim forms by writing to the War Claims Commission, % Veterans' Administration, Heacock Building, Escolta, Manila, or call in person at such office. Any difficulty encountered by eligible claimants in the preparation and/or proper accomplishment of their claim applications can be met by contacting for assistance representatives of the Philippine National Red Cross, the Philippine Veterans Board, the U. S. Veterans' Administration, the American Legion and the Philippine Veterans Legion, who are always ready to help them, free of charge.

Claim applications must be duly accomplished and filed *in duplicate* so that the processing thereof can be expedited. All claim applications will be processed in Washington, D. C., U. S. A. All eligible claimants are therefore advised to file their claims on or before *August 1, 1954*, the deadline fixed by law. Claims filed or posted after midnight of said date will not be accepted. It is important that in order for claims to be considered they must be filed on Official War Claims Commission forms and posted or airmailed on or before August 1, 1954, directly to the War Claims Commission, Washington 25, D. C., U. S. A.

It is therefore, for the good of eligible claimants to file their claims early. Claimants should also refrain from writing to the Commission with inquiries as to the progress or status of their claims, since this will slow down the process of adjudication and create additional work for the Commission.

Provincial governors, city mayors and other local officials, are enjoined to give this matter wide publicity, issuing such notices and/or circulars in the local dialect as may be necessary for the public so that all possible claimants in the remotest barrio will be truly and opportunely apprised. Government officials are also enjoined to help in the preparation of the forms, free of charge.

Radio Station DZFM will broadcast announcements during the day and in the evening relating to this matter, and it is suggested that for better understanding those interested listen carefully during those radiocasts. The newspapers will also carry items of similar nature.

FRED RUIZ CASTRO
Executive Secretary

Department of Finance

CUSTOMS ADMINISTRATIVE ORDER No. 169

July 6, 1953

AUTHORIZING THE ESTABLISHMENT OF BONDED MANUFACTURING WAREHOUSES FOR THE EMBROIDERY INDUSTRY.

To all Collectors of Customs, Chiefs of Divisions, Manila Customhouse, Importers, Customs Brokers and others concerned:

PARAGRAPH I. Pursuant to the authority of sections 551 and 1302 of the Revised Administrative Code, and for the purpose of fostering and encouraging the embroidery industry of the country and of the rehabilitation of labor, the following rules and regulations governing the establishment of manufacturing bonded warehouses for the embroidery industry and the entry of raw materials for use in such industry are hereby promulgated subject to the conditions herein set forth.

PAR. II. Requirements for Establishment of Manufacturing Bonded Warehouse for purposes of the Embroidery Industry.

(a) Buildings or parts of buildings and other enclosures may be designated as Bonded manufacturing warehouses if the Collector of Customs is satisfied that their location, construction, and arrangement afford adequate protection to the revenue. Such warehouses shall be used solely and exclusively for the purpose for which they are bonded.

(b) Application for the establishment of such a warehouse shall be made to the Collector of Customs for the port where the premises are situated, setting forth the size, construction and location of the premises, the manufacture proposed to be carried on and the kinds of materials intended to be stored and used therein. Upon compliance with the terms and conditions herein set forth for the establishment of such warehouse, the Collector may authorize the applicant to operate.

(c) A list of all articles intended to be manufactured in the warehouses shall be filed in duplicate with the Collector of Customs, who shall transmit one copy to the Commissioner of Customs. Such list shall set forth the specific names under which the articles are to be exported and under which they will be known to the trade, and shall show the name, kind and quantity of each material entering into the manufacture of such articles. No other article shall be manufactured unless a list thereof is previously submitted to the Collector of Customs.

(d) Each bonded manufacturing warehouse shall be under the charge of a storekeeper appointed

by the Collector of Customs but whose salary shall be borne by the warehouse operator.

(e) Manufacturing warehouses shall have a portion separated from the remainder of the premises and secured by Customs locks to be used exclusively for the storage of all imported merchandise transferred into such warehouse for manufacture. The premises shall be so secured as to prevent any unauthorized person from having access thereto in the absence of the storekeeper.

(f) The entire premises of an embroidery factory as well as its manner of operation shall be subject to inspection by customs authorities.

PAR. III. Any person, firm or association who has been granted permit to operate a manufacturing bonded warehouse for the embroidery industry under the terms of this Order must file a general warehousing bond in an amount fixed by the Collector of Customs, which amount should be based upon the volume of transaction of the person, firm or association filing such bond. Upon the importation of any dutiable or taxable article or merchandise, for use as raw materials in such industry, the same shall be declared in a warehousing entry, and a bond filed in an amount equivalent to the estimated duties and/or tax, chargeable against the general bond aforementioned, conditioned upon the exportation thereof, or of the finished products within the period herein specified or the payment of such duties and/or tax. The imported articles or merchandise, or the finished products shall be re-exported within the period of two (2) years from the date of arrival of such article of merchandise, which period may be extended for not more than one (1) year in the discretion of the Commissioner of Customs, otherwise the imported article or merchandise shall be subject to sale at auction in accordance with section 1311 of the Revised Administrative Code. The Inspector's return on the export entry shall be sufficient evidence of the exportation of the merchandise actually shipped.

PAR. IV. The following articles are considered as falling within the purview of Central Bank Circular No. 45 dated June 25, 1953 and their importation into the Philippines by an embroidery firm operating under the terms of this Order is hereby authorized without the need of certificate of release from the Central Bank:

1. Cotton piece goods
2. Synthetic piece goods such as rayon and nylon
3. Linen piece goods
4. Silk piece goods
5. Leather cut gloves
6. Laces
7. Bigoudi (trimmings)
8. Cable cords
9. Piping

10. Cording
11. Rickrack
12. Plastic
13. Woven labels
14. Ribbons
15. Buttons (of types not available locally)
16. Sewing threads in spools and cones
17. Embroidery threads
18. Elastic threads
19. Trimmings
20. Other materials, the character of which shows they are to be used as raw materials for embroidery.

PAR. V. Merchandise entered in the warehouse may be withdrawn for processing. A list of the articles withdrawn at any time signed by the representative of the embroidery firm concerned and counter-signed by the storekeeper shall immediately be furnished the Collector of Customs who shall cause the proper entry or notation to be made in the corresponding record of the importation from which the same was taken.

PAR. VI. The laws, rules and regulations governing the establishment and operation of regular bonded warehouses for storage of merchandise shall, in so far as they are found relevant and practicable, be applicable to bonded manufacturing warehouses for the embroidery industry.

PAR. VII. Violation of any of the terms and conditions of this Order by any operator shall be sufficient cause for the revocation of the permit issued to operate a manufacturing bonded warehouse.

PAR. VIII. The provisions of this order shall become effective upon its approval by the Secretary of Finance.

ALFREDO V. JACINTO
Commissioner of Customs

Approved, December 8, 1953.

AURELIO MONTINOLA
Secretary of Finance

CUSTOMS ADMINISTRATIVE ORDER NO. 172

October 28, 1953

SHIPSIDE OR PASE DELIVERY: AMENDING CUSTOMS ADMINISTRATIVE ORDER NO. 137 (OLD SERIES), AS AMENDED BY CUSTOMS ADMINISTRATIVE ORDERS NOS. 113, 123, 148, 152 AND 170.

PARAGRAPH I. Paragraph XXIV of Customs Administrative Order No. 137, as amended, is hereby further amended to read as follows:

Shipside or pase delivery shall be given only to shipments of bulk cargoes when so stowed as not to interfere with the rapid discharge of the carrying

vessel. The following are considered as bulk cargoes:

Acids, in any quantity.

All shipments for charitable and relief institutions, for the U. S. Army or Navy and U. S. Bureau of Public Works Administration for the rehabilitation of the Philippines, in any quantity.

Asphaltum.

Boilers.

Bottles, empty.

Bricks.

Carbide.

Cement, in any quantity.

Coal and Coke, including activated carbon, in any quantity.

Cornstarch, in lot of one mark.

Cotton seed oil in drum or hydrogenated in bags.

Cyanide, crude, in drums.

Demijohns, empty.

Drums, empty, at least 50-gallon capacity.

Dynamite and other explosives, in any quantity.

Fertilizers of all kinds.

Food, crushed, or fodder, in bales in any quantity.

Flour.

Gasoline and other inflammable cargoes, in any quantity.

Grease, lubricating, in drums or in barrels, of at least 55 gallons.

Grinding balls for mines.

Gunpowder, in any quantity.

Gunny bags and Hessian clothes, if subject to fumigation in lighters, in any quantity.

Gypsum.

Hay, in bales in any quantity.

Infusorial and other crude earth and clay, in any quantity.

Iron and steel beams or bars (flat, round or angular) for structural purposes, properly marked.

Kraft papers in rolls of not less than one ton each in weight.

Logs.

Lumber.

Machinery, heavy and assembled, for agricultural and industrial purposes and their accompanying accessories or parts.

Malt.

Old newspapers and magazines, in loose or strapped bundles.

Oil, lubricating, in barrels or in drums, 55-gallon capacity.

Petroleum, in any quantity.

Pipes or tubes.

Pitch, in any quantity.

Propane gas, in any quantity.

Pulp.

Rails, railway cars, wagons and locomotives,

assembled, and their accompanying accessories or parts, or knockdown.

Rice, in lot of one mark.

Salt, in lot of one mark.

Soda ash, in bags or in drums.

Soda, caustic, solid or liquid, in barrels or drums or in tanks.

Soda, silicate of, in bags or in drums.

Steel plates.

Straw, in bales.

Tallow or paraffin wax, in bags.

Tinplates.

Tractors, assembled and their accompanying accessories or parts.

Turpentine, in tins or in aluminum containers.

Provided, that the consignment, except inflammable, explosive, dangerous or obnoxious cargoes, shall aggregate at least 50 tons in weight under one or more bills of lading comprising one commodity for one consignee or importer; *provided, further*, that there is sufficient transportation alongside, properly manned, to receive the cargo; *provided, furthermore*, that this paragraph shall not be so construed as to prevent the Collector of Customs from allowing shipside or pase deliveries for similar articles not listed therein when in his opinion such articles shall be delivered at shipside in the interest of the government; *and provided, finally*, that when such permit is granted, no arrastre charges shall be collected for the articles so delivered.

PAR. II. Customs Administrative Orders Nos. 186, 344, 347, 363 and 376 (old series) and Customs Administrative Orders Nos. 54, 67, 75, 84, 95, 110, 113, 123, 148, 152 and 170 (new series) are hereby superseded.

PAR. III. This order shall take effect upon approval thereof by the Secretary of Finance.

PAR. IV. Philippine Customs officers shall give due publicity and strict enforcement to the terms of this order.

ALFREDO V. JACINTO
Commissioner of Customs

Approved, November 5, 1953.

AURELIO MONTINOLA
Secretary of Finance

CUSTOMS ADMINISTRATIVE ORDER No. 173

December 1, 1953

AUTHORIZING THE USE OF A NATIONAL CASH CONTROL MACHINE IN THE MANILA CUSTOMHOUSE.

For the purpose of safe-guarding the daily collections made by the Cash Division, Manila Customhouse, the use by said division of the National Cash Control Machine is hereby authorized.

Once the use of the machine is started, every payment received by the teller in the Manila Customhouse, whether for import duties, internal revenue taxes, or other accounts shall be recorded in, and receipted for by means of, the machine. As the machine is so constructed as to print the date of payment, the official receipt number, the entry number, and the amount paid, the issuance of hand written official receipts to the public by the Customs Tellers on General Form No. 13(A), series I and J, is hereby discontinued once the machine is in use, without prejudice, however, to the issuance of official receipts on the stated general form in case the National Cash Control Machine goes out of commission. When not in use, the blank official receipts on General Form No. 13(A), series I and J, under the accountability of the Cash Division, Manila Customhouse, shall be kept in a locked cabinet by the Chief of the Division.

When the use of the National Cash Control Machine is started, all receipts for payments received by the Teller in the Cash Division shall be made on B. C. Form No. 38-Revised. This Form, which is in four copies, shall be prepared by the Marine Division to be attached to the pertinent entry at the time the entry is forwarded to the Cash Division. Upon receipt by the Teller of the amount or amounts shown in the Form, such amount or amounts shall be recorded in the National Cash Control Machine, using the machine to certify the receipt by printing thereon, on the spaces provided for the purpose, the date of payment, the official receipt number, the entry number (if the payment is for import duties), and the total amount paid. Under no circumstances shall date of payment, official receipt number, entry number, or amount paid be written in ink or by pencil. After this printing has been accomplished, the form becomes the official receipt for the amount paid to the Teller. The different copies of each official receipt shall then be distributed as follows:

The original copy, to the taxpayer.

The second copy, to the auditor, thru the Accounting Officer.

The third copy, to be retained by the Cash Division.

The fourth copy, to be hotchkissed to the entry.

In the case of other accounts, such as wharfage charges, tonnage dues, storage charges, accounts receivable, etc. which are covered by statements or bills, the covering statements or bills shall be accompanied by already prepared B. C. Form 38-Revised at the time of submission to the Cash Division for collection. The four copies of the receipt covering payment of each amount shall be distributed in the same manner as the copies of the receipt covering payments for import duties and internal revenue taxes, except that the fourth copy shall be hotchkissed to the pertinent paid voucher.

The machine is provided with five keys, the functions of which are indicated hereunder:

Key No. 2.—Permits removal of the cash drawer from the machine in case the machine has to be repaired during business hours. This key should be kept by the Teller.

Key No. 5.—Permits opening of the cover of the motor compartment of the machine. This key should be kept by the Chief of the Cash Division.

Key No. X-14-1.—Permits the reading of sub-totals of the collections at any time when needed. This key should be kept by the Auditor, who will cause the machine to be unlocked whenever reading of the subtotals is desired by the Teller or the Chief of the Cash Division. Such reading should be under the personal supervision of the Auditor or his duly authorized representative.

Key No. Z-14-1 (2 pieces).—Permits the resetting of the 18 separate classification totals and the grand total of the 18 classification totals. It also locks the machine, the cover to the abstract, and the cover of the transaction counters. This key should be kept by the Auditor.

Large Key (unnumbered).—Resets consecutive numbers (official receipt serial numbers). This key should be kept by the Auditor, who will permit the resetting of the official receipt serial numbers only at the beginning of each calendar year, or earlier if the highest number that the machine can automatically print has been reached. The machine can automatically print from receipt No. 1 to receipt No. 999999 in one resetting.

At the end of each business day, the Bureau Auditor or his authorized representative, shall reset the machine, print the transaction totals on the abstract, and remove the abstract from the machine. He, or his authorized representative, shall identify the abstract by affixing his signature thereon after writing on the same the corresponding detector counter number and the date of the abstract. He will then:

1. set the date for the following business day,
2. attach the audit sheet to the receiving roll,
3. clear all totals at the top of the abstract sheet,
4. write the detector counter number on the abstract sheet,
5. write the date and his signature on the abstract, and
6. lock the cover over the abstract.

At the close of each business day, the Teller, after checking his total collections against the total amount receipted for by the machine, shall turn over all such collections to the Chief of the Cash Division who shall issue an official receipt therefor on General Form No. 13(A) in favor of the Teller.

The public is hereby warned that as long as the National Cash Control Machine is not out of commission, only the receipts certified by said machine on B. C. Form 38-Revised shall be recognized as valid evidence of payment of accounts due the Bureau of Customs at the Manila Customhouse. In case of failure of the machine, such fact shall be duly announced by the Chief of the Cash Division who shall cause a written notice bearing his signature to be posted at the Teller's window, in which case the paying public will be issued official receipts on General Form No. 13(A) for the amounts paid to the Teller.

This regulations does not affect the issuance of official receipts on B. C. Form No. 116 (Statement and Receipts of Duties Collected on Informal Entry) which is hereby continued in respect to the Customs Units now using the form.

This Order shall take effect ten days after its approval by the Secretary of Finance.

Philippine Customs officers shall give due publicity to the terms of this Order.

ALFREDO V. JACINTO
Commissioner of Customs

Approved, December 16, 1953.

AURELIO MONTINOLA
Secretary of Finance

Concurred in:

PEDRO M. GIMENEZ
Deputy Auditor General

CUSTOMS ADMINISTRATIVE ORDER No. 174

January 13, 1954

STORAGE, FIXING RATES OF, FOR THE YEAR 1954, ON MERCHANDISE REMAINING ON CUSTOMS PREMISES AND GENERAL BONDED WAREHOUSES, AND ON BAGGAGE AND PARCELS LEFT IN CUSTOMS CUSTODY.

To All Collectors of Customs, Chiefs of Divisions, Manila Customhouse, Importers, Customs Brokers and others concerned:

PARAGRAPH I. Pursuant to the provisions of section 1257 of the Revised Administrative Code, the same rates of storage provided in Customs Administrative Order No. 161 corresponding to the year 1953 shall be charged on goods, wares or merchandise and baggage remaining on government piers, customs premises, and general bonded warehouses at all ports of entry during the calendar year 1954.

PAR. II. All the provisions of Customs Administrative Order No. 161 are hereby revived and made applicable to the whole year 1954.

PAR. III. The provisions of this order shall take effect as of January 1, 1954.

PAR. IV. Philippine customs officers shall give due publicity to the terms of this order.

JAIME VELASQUEZ
*Special Technical Assistant
to the President*

Approved:

JAIME HERNANDEZ
Secretary of Finance

CUSTOMS ADMINISTRATIVE ORDER No. 175

January 4, 1954

FEEs FOR: SPECIAL PERMITS, APPLICATION FOR DISTRICT PILOTS; EXAMINATION, COAST PILOT PERMIT, FILING MARINE PROTEST, ETC., SUPERSEDING CUSTOMS ADMINISTRATIVE ORDERS NOS. 41 AND 46, AND PARAGRAPH V OF CUSTOMS ADMINISTRATIVE ORDER No. 147.

Paragraph I. By authority of section 1415 of the Revised Administrative Code, the following fixed fees shall be collected by requiring the affixture of documentary customs stamps in the proper amount to the instrument which is the subject of the charge:

1. For each special permit (valid either for one round trip or not more than one month, in the discretion of the Collector of Customs) authorizing a deck or engine room officer holding license of minor category to act in a higher capacity, or navigate in waters other than those for which he was licensed:

(a) For masters and chief engineers	P10.00
(b) For first, second and third mates, and second, third and fourth engineers	7.00
(c) For patrons and bay and river engineers	7.00

2. For each special permit (valid for 3 months, authorizing a vessel of less than 35 gross tons to operate without licensed officers, as authorized under section 1203 (o) of the Revised Administrative Code, and amended, for each unlicensed deck officer and/or engineer each

10.00

3. For each special permit (valid for one single trip) authorizing a vessel to carry additional passengers, for each additional passenger

2.00

4. For each special permit (valid for one month authorizing a person to make diving operation

10.00

5. For each special permit (valid during the year when issued) authorizing a person or firm to make salvage operations

50.00

6. For each application for examination as district pilot

50.00

7. For each permit as coast pilot, payable once only

50.00

8. For filing marine protest—

(a) For each vessel of less than 100 gross tons

2.00

(b) For each vessel of 100 to less than 500 gross tons

5.00

(c) For each vessel of 500 gross tons, or over

10.00

9. For each appeal from decisions of the Commissioner of Customs based on the recommendation of the Board of Marine Inquiry

10.00

PAR. II. The present holders of coast pilot permits before this order becomes effective shall be subject to the payment of the fee herein prescribed.

PAR. III. A fixed fee of P5 shall be charged and collected for each special permit not hereinabove specified, or otherwise provided for by law.

PAR. IV. Customs Administrative Orders Nos. 41 and 46 and paragraph II and V of Customs Administrative Order No. 147 are hereby superseded.

PAR. V. This Order shall take effect on March 1, 1954.

ALFREDO V. JACINTO
Commissioner of Customs

Approved:

JAIME HERNANDEZ
Secretary of Finance

CUSTOMS ADMINISTRATIVE ORDER No. 176

March 21, 1954

IMPORT ENTRIES: FORM PRESCRIBED: AMENDING CUSTOMS ADMINISTRATIVE ORDERS NOS. 23 AND 50 (NEW SERIES).

PARAGRAPH I. B. C. Form No. 11-A (revised) is hereby prescribed for the entry of imported merchandise, whether for consumption, free, or warehousing. The same form shall also be used as an Internal Revenue entry, when the importation is subject to Internal Revenue taxes. The entry shall be prepared and filed with the Marine Division, Bureau of Customs, in quintuplicate. All the other requirements in the preparation, filing and treatment of import entries and Internal Revenue statements as prescribed in Customs Administrative Orders, Nos. 23 and 50, new series, shall be complied with.

PAR. II. This order shall take effect on April 1, 1954 in the Port of Manila and May 1, 1954 in the other ports of entry.

PAR. III. Philippine customs officers shall give due publicity to the terms of this order.

JAIME VELASQUEZ
*Special Technical Assistant
to the President
Acting Commissioner of Customs*

Approved:

JAIME HERNANDEZ
Secretary of Finance

CUSTOMS ADMINISTRATIVE ORDER No. 177

March 16, 1954

AMENDING CUSTOMS ADMINISTRATIVE ORDER NO. 146, DATED DECEMBER 20, 1951, RE PERIOD OF EXTENSION OF CHARGEABLE BONDS.

PARAGRAPH I. Paragraph XXX of Customs Administrative Order No. 389 as amended by Customs Administrative Order No. 146 is hereby further amended to read as follows:

EXTENSION

"PAR. XXX. General bonds are not extendable after the expiration of their period. All obligations contracted thereon shall be considered subsisting and valid until the conditions herein set forth have been fully complied with in which case the same shall be considered as automatically cancelled. *Provided, however,* that a bond for the production of Consular Invoice, Corrected Consular Invoice and Landing certificates from Japan, Hongkong and other Asiatic countries near the Philippines shall expire one month from the date of the filing of the Entry without extension and, *Provided further,* that bonds for the production of consular invoice, corrected consular invoice, landing certificate, etc., from the United States, Great Britain and other European countries farther from the Philippines shall expire four months from the date of filing the entry, also without extension, in which case if said invoices or certificates cannot be filed within said period, the likelihood is that the document can never be produced and the case should be treated as a breach of bond."

PAR. II. The provisions of this order shall become effective on the date of its approval by the Honorable, the Secretary of Finance.

PAR. III. Philippine Customs officers shall give due publicity to the terms of this order.

JAIME VELASQUEZ
*Special Technical Assistant
to the President*

Acting Commissioner of Customs

Approved, April 2, 1954.

JAIME HERNANDEZ
Secretary of Finance

CUSTOMS ADMINISTRATIVE ORDER No. 178

February 11, 1954

IMPLEMENTATION OF THE UNESCO 1950 AGREEMENT ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC AND CULTURAL ARTICLES AND MATERIALS.

PARAGRAPH I. Besides the Philippines, the following States are signatories of the UNESCO Agreement reproduced in Customs Circular Letter No. 1035 and which Agreement is herein implemented: Afghanistan, Belgium, Bolivia, Cambodia, Ceylon, China, Columbia, Cuba, Dominican Republic, Ecuador, Egypt, France, Greece, Guatemala, Haiti, Iran, Israel, Laos, Luxembourg, Monaco, Netherlands, New Zealand, Pakistan, Salvador, Sweden, Switzerland, Thailand, United Kingdom, Viet-Nam, and Yugoslavia.

PAR. II. The following articles shall be admitted free of duty regardless of their country of exportation, subject to the conditions set forth in this order:

BOOKS, PUBLICATIONS AND DOCUMENTS

- (i) Printed books.
- (ii) Newspapers and periodicals.
- (iii) Books and documents produced by duplicating processes other than printing.
- (vi) Official government publications, that is, official, parliamentary and administrative documents published in their country of origin.
- (v) Travel posters and travel literature (pamphlets, guides, time-tables, leaflets and similar publications), whether illustrated or not, including those published by private commercial enterprises, whose purpose is to stimulate travel outside the country of importation.
- (vi) Publications whose country is to stimulate study of outside the country of importation.
- (vii) Manuscripts, including typescripts.
- (viii) Catalogues of books and publications, being books and publications offered for sale by publishers or book-sellers established outside the country of importation.
- (ix) Catalogues of films, recordings or other visual and auditory material of an educational, scientific or cultural character, being catalogues

issued by or on behalf of the United Nations or any of its specialized agencies.

(x) Music in manuscript or printed form, or reproduced by duplicating processes other than printing.

(xi) Geographical, hydrographical or astronomical maps and charts.

(xii) Architectural, industrial or engineering plans and designs, and reproductions thereof, intended for study in scientific establishments or educational institutions approved by the competent authorities of the importing country for the purpose of duty-free admission of these types of articles.

The following materials are not included in this paragraph:

(a) Stationery.

(b) Books, publications and documents (except catalogues, travel posters and travel literature referred to above) published by or for a private commercial enterprise, essentially for advertising purposes.

(c) Newspapers and periodicals in which the advertising matter is in excess of 70 per cent by space.

(d) All other items (except catalogues referred to above) in which the advertising matter is in excess of 25 per cent by space. In the case of travel posters and literature, this percentage shall apply only to private commercial advertising matter.

PAR. III. The following materials, if imported from any of the States enumerated in Paragraph I, shall be free of duty, subject to the conditions set forth in this order.

A. WORKS OF ART AND COLLECTORS: PIECES OF AN EDUCATIONAL, SCIENTIFIC OR CULTURAL CHARACTER.

(i) Paintings and drawings, including copies, executed entirely by hand, but excluding manufactured decorated wares.

(ii) Hand-printed impressions, produced from hand-engraved or hand-etched blocks, plates or other material, and signed and numbered by the artist.

(iii) Original works of art of statuary or sculpture, whether in the round, in relief, or in intaglio, excluding mass-produced reproductions and works of conventional craftsmanship of a commercial character.

(iv) Collectors' pieces and objects of art assigned to public galleries, museums and other public institutions, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, not intended for resale.

(v) Collections and collectors' pieces in such scientific fields as anatomy, zoology, botany, mineralogy, palaeontology, archaeology and ethnography, not intended for resale.

(vi) Antiques, being articles in excess of 100 years of age.

B. VISUAL AND AUDITORY MATERIALS OF AN EDUCATIONAL, SCIENTIFIC OR CULTURAL CHARACTER.

(i) Films, filmstrips, microfilms and slides, of an educational, scientific or cultural character.

(ii) Newsreels (with or without sound track), depicting events of current news value at the time of importation, and imported in either negative form, exposed and developed, or positive form, printed and developed, limited to two copies of each subject for copying purposes.

(iii) Sound recordings of an educational, scientific or cultural character for use exclusively in public or private educational, scientific or cultural institutions or societies.

(iv) Films, filmstrips, microfilms and sound recordings of an educational, scientific or cultural character produced by the United Nations or any of its specialized agencies.

(v) Patterns, models and wall charts for use exclusively for demonstrating and teaching purposes in public or private educational, scientific or cultural institutions.

Materials included in items (i), (ii), and (iii) of this paragraph may be imported by broadcasting organizations with the approval of the Secretary of Finance.

C. SCIENTIFIC INSTRUMENTS OR APPARATUS

Scientific instruments or apparatus, intended exclusively for educational purposes or pure scientific research.

D. ARTICLES FOR THE BLIND

(i) Books, publications and documents of all kinds in raised characters for the blind.

(ii) Other articles specially designed for the educational, scientific or cultural advancement of the blind.

Every importation of the materials or articles mentioned in this paragraph shall be accompanied, in addition to the documents ordinarily required by the present laws, rules and regulations, by (1) sworn certificate of origin, and (2) a certificate that the materials are of educational, scientific or cultural character.

The certificate of origin shall state that the materials are of the growth, product or manufacture of the country of exportation which is another contracting state, and shall be executed by a responsible official of the manufacturer or seller and shall be sworn to before a Philippine consul or vice-consul, a notary public or a person authorized to administer oath.

The certificate that such materials are of an educational, scientific or cultural character shall be issued by the appropriate governmental agency of the State wherein the material to which the certificate relates originated, or by the United Nations Educational Scientific and Cultural Organization, and shall be advisory only in effect.

PAR. IV. Application for clearance and withdrawal of the aforementioned articles shall be accompanied—

With respect to the articles enumerated in Paragraph IIIA(*iv*) by an affidavit executed by a responsible official of the public gallery, museum or other public institution to which the materials are consigned. The affidavit shall state that the institution is approved by the competent authorities for the purpose of duty-free admission of these types of articles, that such articles are for the sole and bonifide use of the consignee and that they shall not be for barter, exchange or resale;

With respect to the articles enumerated in Paragraph IIIA(*v*), by an affidavit of the importer stating that such articles shall not be for barter, exchange or resale;

With respect to the articles enumerated in Paragraph III(*vi*), by a certificate sworn to by the seller and/or shipper before the Philippine consul or vice-consul or, in their absence, a notary public or a person authorized to administer oath, and which document shall give a brief history of the antiques and shall specify the historical era and/or the approximate year of their manufacture;

With respect to the articles enumerated in Paragraph IIIB(*i*), by an affidavit executed by a responsible official of the importing organization, and which shall state that the organization is approved by the competent authorities for the purpose of duty-free admission of these types of articles, and that the same articles shall be exclusively for exhibition by these organizations or by other public or private educational, scientific or cultural institutions or societies approved by the aforesaid authorities;

With respect to the articles enumerated in Paragraph IIIB(*ii*), by an affidavit executed by a responsible official of the importing organization, and which shall state that the organization is approved by the competent authorities for the purpose of duty-free admission of such films;

With respect to the articles enumerated in Paragraph IIIB(*iii*), by an affidavit executed by the importer, stating that the aforesaid articles shall be for use exclusively in public or private educational, scientific or cultural institutions or societies approved by the competent authorities for the purpose of duty-free admission of these types of articles;

With respect to the articles enumerated in Paragraph IIIB(*v*), by an affidavit executed by the importer, stating that the aforesaid articles shall be for use exclusively for demonstrating and teaching purposes in public or private educational, scientific and cultural institutions approved by the competent authorities for the purpose of duty-free admission of these types of articles;

With respect to the scientific instruments and apparatus enumerated in Paragraph IIIC, by an

affidavit executed by a responsible official of the public or private scientific or educational institution to which the articles are consigned, and which affidavit shall state that the institution is approved by the competent authorities for the purpose of duty-free admission of these types of articles, that the articles are intended exclusively for educational purposes or pure scientific research, and that they shall be used under the control and responsibility of the institution;

With respect to the articles enumerated in Paragraph IIID(*ii*), by an affidavit executed by a responsible official of the importing institution or organization concerned with the welfare of the blind, stating that the institution or organization is approved by the competent authorities for the purpose of duty-free admission of these types of articles.

PAR. V. Whenever the importer is unable to produce the sworn certificate of origin at the time of entry he may file a bond conditioned upon the production of the lacking document under the terms and conditions set forth by the present rules and regulations governing customs documentary bonds.

PAR. VI. Whenever the educational, scientific or cultural character of the materials imported under the provisions of the said Agreement is in dispute and, pending the resolution thereof, the importer may clear and take delivery of the merchandise either by the payment of the import duties under protest, or by the filing of a bond in the amount equivalent to double the estimated import duties thereon conditioned upon payment of such import duties in the event of a decision adverse to the importer.

PAR. VII. The existing rules and regulations with respect to bonding for re-exportation of or payment of duty on foreign articles, goods, wares, or merchandise destined for display in public exhibitions in the Philippines shall likewise apply to importations of educational, scientific or cultural materials, which are imported exclusively for showing at a public exhibition approved by the competent authorities and for subsequent re-exportation, and which are treated in article III of said Agreement.

PAR. VIII. The importation of materials and articles hereby exempted from the payment of duties shall be allowed only if such materials and articles are not a menace to national security, subversive of public order or contrary to public morals, or if such importation is not in conflict with law, or with international treaties, conventions, agreements, or proclamations, with respect to copyrights, trade marks or patents.

PAR. IX. Nothing in this Order shall be interpreted to mean that any of the articles or materials mentioned herein and which are not imported exclusively for showing at public exhibition approved by competent authorities and for subsequent re-exportation, is exempt from internal taxes or any

other internal charges of any kind, imposed at the time of importation or subsequently, not exceeding those applied directly or indirectly to like domestic products, and nothing in this Order shall be interpreted to mean that any of the articles or materials hereinmentioned shall be exempt from fees and charges other than customs duties, imposed by governmental authorities on, or in connection with, importation, limited in amount to the approximate cost of the services rendered, and representing neither an indirect protection to domestic products nor a taxation of imports for revenue purposes.

PAR. X. This order shall take effect on the date of its approval by the Honorable, the Secretary of Finance.

PAR. XI. All Collectors of Customs and others concerned shall be guided accordingly.

JAIME VELASQUEZ
*Special Technical Assistant
to the President*

Acting Commissioner of Customs

Approved, April 5, 1954.

JAIME HERNANDEZ
Secretary of Finance

CUSTOMS ADMINISTRATIVE ORDER No. 179

January 5, 1954

ISSUANCE OF COAST PILOT PERMIT; APPOINTMENT OF CHIEF PILOTS, REGULAR PILOTS, AND APPRENTICE PILOTS OF PILOTAGE DISTRICTS. SUPERSEDING PARAGRAPHS I, III AND IV OF CUSTOMS ADMINISTRATIVE ORDER NO. 147.

PARAGRAPH I. Master mariners desiring to be authorized as coast pilots outside of established pilotage districts shall file their applications in writing with the Commissioner of Customs, accompanied by the certificate of competent physicians, preferably Customs Medical Inspectors, or physicians of the Bureau of Quarantine, showing their general condition, particularly as to eye-sight, color perception, and hearing, and that they are not physically disqualified to perform the duty of a coast pilot; and shall produce their marine certificate as master for coastwise, or for any ocean, as well as certificate or certificates of services duly signed and sworn to by shipowners or operators, showing that they have been in actual command of inter-island vessels of not less than 500 gross tons plying in Philippine waters for a period of not less than ten years. Upon production of the above-mentioned certificates, the applicant may be given a coast pilot permit in the discretion of the Commissioner of Customs with the approval of the Secretary of Finance, and shall be subject to the pay-

ment of the fees prescribed therefor; *Provided*, that the permit issued to a coast pilot shall continue to be valid only as long as his marine certificate remains valid.

PAR. II. Coast pilots are hereafter required to submit, through the Collector of Customs concerned, to the Commissioner of Customs a monthly report of their operations, stating therein the number of vessels piloted by them, as well as the amount they received for their services in piloting such vessels.

PAR. III. A person who has passed the examination as district pilot provided in paragraphs VIII et. seq. of Customs Administrative Order No. 26 shall, when a vacancy in the district concerned exists, be appointed as an apprentice pilot. The appointee shall be selected from among those who have passed the examination mentioned in paragraph XII of Customs Administrative Order No. 26, and shall be assigned to duty with regular pilots for a period of two months, during which time he shall accompany them upon as many service tours as possible, and make a careful study of the duties pertaining to his position, and if, at the expiration of the period designated, he is certified by the Chief Pilot as being qualified to assume the duties of a district pilot, he may be appointed regular district pilot; otherwise his appointment shall be cancelled.

PAR. IV. Apprentice district pilots, regular district pilots, and chief pilots of pilotage districts shall be appointed by the Secretary of Finance upon recommendation of the Commissioner of Customs.

PAR. V. Paragraphs I, III and IV of Customs Administrative Order No. 147 are hereby superseded.

PAR. VI. This order shall take effect upon the date of approval by the Honorable, the Secretary of Finance.

PAR. VII. Philippine customs officers shall give due publicity to the terms of this order.

JAIME VELASQUEZ
*Special Technical Assistant
to the President*
Acting Commissioner of Customs

Approved as per our 1st indorsement of April 13, 1954.

JAIME HERNANDEZ
Secretary of Finance

CUSTOMS ADMINISTRATIVE ORDER No. 180

January 27, 1954

REGULATIONS GOVERNING THE TEMPORARY EXPORTATION AND IMPORTATION OF CARS FOR USE OF TOURISTS OR TRAVELERS COVERED BY "CARNOT DE PASSAGES EN DOUANES".

For the effectuation of the terms of the Convention of Road Traffic signed at Geneva on September 19, 1949 at which the Philippine Government was one of the signatories and concurred in by the Senate under Resolution No. 83, dated May 5, 1952, the following regulations are hereby promulgated for the guidance of all concerned.

1. Automobiles or cars temporarily exported from the Philippines by tourists who wish to travel in foreign countries with their vehicles shall be entitled to re-entry free from the payment of customs duty and/or tax and without the necessity of the customary certificate of identification if covered by "Carnot de Passages en Douanes" issued by the Philippine Motor Association which has been designated to act as the "National" auto club for the purpose.

2. Automobiles or cars temporarily imported into the Philippines by tourists or travelers traveling with their vehicles shall likewise be exempt from customs duty and/or tax if covered by "Carnot de Passages en Douanes" issued in their respective countries and if supported by a letter from the Philippine Motor Association guaranteeing the re-exportation of the vehicles within the period of one year from the date of arrival thereof or the payment of customs duties and/or tax.

3. No customs entry shall be required to obtain clearance of the vehicles imported under the above condition but a separate record shall be kept by the Bureau of Customs of cars so imported for the protection of the revenues.

4. The provisions of this Order shall take effect on the date of approval by the Secretary of Finance.

JAIME VELASQUEZ
*Special Technical Assistant
to the President*

Approved:

JAIME HERNANDEZ
Secretary of Finance

Department of Justice

ADMINISTRATIVE ORDER No. 81

May 22, 1954

ASSIGNING JUDGE-AT-LARGE TEODORO CAMACHO TO DECIDE CASES IN THE PROVINCE OF COTABATO.

In the interest of the administration of justice, the Honorable Teodoro Camacho, Judge-at-Large, is hereby assigned to the Province of Cotabato to decide cases previously tried by him in said province and now pending decision by him.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 82

May 22, 1954

AUTHORIZING JUDGE JUAN M. LADAW OF THE FIRST JUDICIAL DISTRICT, CAGAYAN AND BATANES, SECOND BRANCH, TO DECIDE CASES IN APARRI, CAGAYAN.

In the interest of the administration of justice and upon request of Judge Juan M. Ladaw of the First Judicial District, Cagayan and Batanes, second branch, he is hereby authorized to decide in Aparri, Cagayan, the following cases which were previously tried by him while presiding over the Court of First Instance in Basco, Batanes:

Criminal Case No. 207—People of the Philippines *vs.* Fernando T. Fuentes for malversation;

Criminal Case No. 207—People of the Philippines *vs.* Ruperto Manud for frustrated murder;

Criminal Case No. 229—People of the Philippines *vs.* Ruperto Manud for murder; and

Criminal Case No. 230—People of the Philippines *vs.* Ruperto Manud for murder.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 83

May 27, 1954

AUTHORIZING CADASTRAL JUDGE JUAN O. REYES TO HOLD COURT IN THE PROVINCE OF LA UNION.

In the interest of the administration of justice and pursuant to the provisions of section 56 of Republic Act No. 296, the Honorable Juan O. Reyes, Cadastral Judge, is hereby authorized to hold court in the Province of La Union, beginning June 10, 1954, for the purpose of trying all kinds of cases and to enter judgments therein.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 84

May 29, 1954

AUTHORIZING CADASTRAL JUDGE ELADIO R. LEAÑO TO HOLD COURT IN LINGAYEN, PANGASINAN AFTER HIS COURT SESSION IN TAYUG, SAME PROVINCE.

In the interest of the administration of justice and pursuant to the provisions of section 56 of Republic Act No. 296, the Honorable Eladio R. Leaña, Cadastral Judge, is hereby authorized to hold court in Lingayen, Pangasinan after his court sessions in

Tayug, same province, for the purpose of trying all kinds of cases and to enter judgment to therein.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 2

June 2, 1954

AUTHORIZING ASSISTANT SOLICITOR GENERAL GUILLERMO E. TORRES TO SIGN VOUCHERS AND CHECK PORTIONS OF ALL TREASURY WARRANTS DRAWN AGAINST THE APPROPRIATION OF THE OFFICE OF THE SOLICITOR GENERAL.

Pursuant to the provisions of sections 615 and 616 of the Revised Administrative Code, Honorable Guillermo E. Torres, Assistant Solicitor General, is hereby authorized to sign vouchers and check portions of all treasury warrants drawn against the appropriations of the Office of the Solicitor General, signing as follows:

QUERUBE C. MAKALINTAL
Solicitor General

By: GUILLERMO E. TORRES
Assistant Solicitor General

JESUS G. BARRERA
Undersecretary of Justice

ADMINISTRATIVE ORDER No. 85

June 2, 1954

AUTHORIZING JUDGE-AT-LARGE EULOGIO MENCIAS TO HOLD COURT IN THE PROVINCE OF ILOCOS NORTE.

In the interest of the administration of justice and pursuant to the provisions of section 56 of Republic Act No. 296, the Honorable Eulogio Mencias, Judge-at-Large, is hereby authorized to hold court in the province of Ilocos Norte, as soon as possible, for the purpose of trying all kinds of cases and to enter judgments therein.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 86

June 2, 1954

DESIGNATING ACTING PROVINCIAL FISCAL JOSE M. ZAMBARRANO OF ILOILO TO ASSIST THE CITY FISCAL OF ILOILO CITY.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, Mr. Jose M. Zambarrano, Acting Provincial Fiscal of Iloilo, is hereby design-

nated to assist the City Fiscal of Iloilo City in the investigation and prosecution of Criminal Cases Nos. 3351, 3548, 3549, 3550, 3551, 4232 and 4278, entitled "People vs. Francisco Offemaria" of the Court of First Instance of Iloilo, effective immediately and to continue until further orders.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 87

June 2, 1954

DESIGNATING JUSTICE OF THE PEACE LEOVIGILDO V. MIJARES OF GANDARA MATUGUINAO, SAMAR, AS ACTING JUDGE OF CALBAYOG CITY.

In the interest of the public service and pursuant to the provision of section 76 of Republic Act No. 328, otherwise known as the Charter of the City of Calbayog, Mr. Leovigildo V. Mijares, Justice of the Peace of Gandara and Matuguinao, Samar, is hereby designated Acting Judge of Calbayog City, effective immediately, and to continue only during absence on leave of the regular incumbent.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 88

June 4, 1954

DESIGNATING SPECIAL ATTORNEY ALFREDO CATOLICO OF THE DEPARTMENT OF JUSTICE TO ASSIST THE CITY FISCAL OF MANILA IN THE INVESTIGATION AND PROSECUTION OF A CRIMINAL CASE.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, Mr. Alfredo Catolico, Special Attorney of this Department, is hereby designated to assist the City Fiscal of Manila in the investigation and prosecution of Criminal Case No. 26719, entitled "People vs. Gaudencio P. Manintim, et al., in the Court of First Instance of Manila, effective immediately and to continue until further orders.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 89

June 5, 1954

DESIGNATING HONORABLE CLEMENTINO V. DIEZ, JUDGE OF THE FOURTEENTH JUDICIAL DISTRICT, CEBU, BRANCH I, AS MEMBER OF SAID COMMISSION IN LIEU OF JUDGE VARELA AND LIKEWISE DESIGNATING HONORABLE HIPOLITO ALO,

JUDGE OF THE FOURTEENTH JUDICIAL DISTRICT, BOHOL, AS MEMBER OF THE SAID COMMISSION.

Pursuant to the provisions of Administrative Order No. 11 of His Excellency, the President of the Philippines, dated October 2, 1946, and in view of the death of Judge Vicente Varela of the Court of First Instance of Cebu, Member of the Eleventh Guerrilla Amnesty Commission, the Honorable Clementino V. Diez, Judge of the Fourteenth Judicial District, Cebu, Branch I, is hereby designated to act as member of the said Commission in lieu of Judge Varela; and in view of the appointment of Judge Clementino V. Diez, Member of the Twelfth Guerrilla Amnesty Commission, as Judge of the Fourteenth Judicial District, Cebu, First Branch, the Honorable Hipolito Alo, Judge of the Fourteenth Judicial District, Bohol, is hereby designated as member of the said Commission in lieu of Judge Diez.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 90

June 5, 1954

AUTHORIZING CADASTRAL JUDGE FILOMENO IBANEZ, TO HOLD COURT IN THE PROVINCE OF ILOILO.

In the interest of the administration of justice and pursuant to the provisions of section 56 of Republic Act No. 296, the Honorable Filomeno Ybanez, Cadastral Judge, is hereby authorized to hold court in the Province of Iloilo, beginning June 15, 1954, for the purpose of continuing the trial of the cases previously begun by him and to enter judgments therein.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 91

June 8, 1954

AUTHORIZING CADASTRAL JUDGE JUAN O. REYES TO DECIDE IN LA UNION, A CIVIL CASE WHICH WAS PREVIOUSLY TRIED BY HIM WHILE HOLDING COURT IN SAID PROVINCE.

In the interest of the administration of justice and pursuant to the request of Cadastral Judge Juan O. Reyes, he is hereby authorized to decide in La Union, Civil Case No. 5226 entitled, "A. Medina vs. M. Carramanzana et al.," of the Court of First Instance of Cavite, which was previously tried by him while holding court in said province.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 92

June 12, 1954

AUTHORIZING JUDGE-AT-LARGE JOSE P. FLORES TO DECIDE IN LA UNION CIVIL CASE WHICH WAS PREVIOUSLY TRIED BY HIM WHILE HOLDING COURT IN THE PROVINCE OF COTABATO.

In the interest of the administration of justice, the Honorable Jose P. Flores, Judge-at-Large, is hereby authorized to decide in La Union, Civil Case No. 568 entitled "Rio Grande Rubber Estate Co. vs. Board of Liquidators, et al., which was previously tried by him while holding of court in the Province of Cotabato.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 94

June 10, 1954

AUTHORIZING JUDGE-AT-LARGE JOSE P. FLORES TO DECIDE IN SAN FERNANDO, LA UNION CERTAIN CASES WHICH WERE PREVIOUSLY TRIED BY HIM WHILE HOLDING COURT IN COTABATO.

In the interest of the administration of justice and pursuant to the request of Judge-at-Large Jose P. Flores, he is hereby authorized to decide in San Fernando, La Union, the following cases which were previously tried by him while holding court in the Province of Cotabato:

Criminal Case No. 1644—"People vs. Aurelio Galanta" for Malversation of Public Funds; Criminal Case No. 1791—"People vs. Sama Mangacop" for Qualified Seduction; and Administrative Case No. 12—"Epigenia Paredes Lopez vs. Braulio D. Hurtado".

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 95

June 21, 1954

AUTHORIZING HONORABLE FIDEL FERNANDEZ OF SAMAR, TO RESOLVE THE MOTION SUBMITTED IN CRIMINAL CASE NO. 1210.

In the interest of the administration of justice and pursuant to the provisions of Administrative Order No. 219 of this Department, dated December 6, 1948, last paragraph, the Honorable Fidel Fernandez of the Thirteenth Judicial District, Samar, First Branch, is hereby authorized to resolve the motion submitted in Criminal Case No. 1210 vs. Ismael Esparcia, et al., of the Second Branch

of the Court of First Instance of Samar, and to try said case and enter judgment therein.

PEDRO TUASON
Secretary of Justice

ADMINISTRATIVE ORDER No. 96

June 18, 1954

DESIGNATING CITY ATTORNEY PASCUAL ATILANO OF ZAMBOANGA CITY TO ASSIST THE CITY ATTORNEY OF BASILAN CITY IN THE INVESTIGATION AND PROSECUTION OF A CRIMINAL CASE.

In the interest of the public service and pursuant to the provisions of section 1686 of the Revised Administrative Code, Mr. Pascual Atilano, City Attorney of Zamboanga City, is hereby designated to assist the City Attorney of Basilan City in the investigation and prosecution of Criminal Case No. 1861 of the Court of First Instance of Basilan City entitled "People vs. Labac, et al.," effective immediately and to continue until further orders.

PEDRO TUASON
Secretary of Justice

Department of Agriculture and Natural Resources

BUREAU OF LANDS

LANDS ADMINISTRATIVE ORDER No. 1-7-3

May 26, 1954

PLACING THE SUB-PROVINCES OF KALINGA AND IFUGAO, MOUNTAIN PROVINCE, UNDER THE ADMINISTRATIVE JURISDICTION OF LAND DISTRICT NO. 3, BAGUIO CITY.

1. Paragraph 44, Chapter VIII, of Lands Administrative Order No. 1, as revised on August 25, 1941, is hereby further amended by excluding from Land Districts Nos. 1 and 5, the Sub-Provinces of Kalinga and Ifugao, respectively, Mountain Province, and placing them within the administrative jurisdiction of Land District No. 3, Baguio. Consequently, the Sub-Office at Tabuk, Kalinga, shall be under the district supervision and control of the District Land Officer at Baguio.

2. This Order shall take effect immediately.

SALVADOR ARANETA
*Secretary of Agriculture and
Natural Resources*

Recommended by:

ZOILLO CASTRILLO
Director of Lands

FISHERIES ADMINISTRATIVE ORDER No. 20-1

February 12, 1954

REVIVING, EXTENDING AND ENFORCING THE PROVISIONS OF FISHERIES ADMINISTRATIVE ORDER NO. 20, DATED AUGUST 6, 1940.

Pursuant to the provisions of section 4, Act No. 4003, as amended, commonly known as the "Fisheries Act", the provisions of Fisheries Administrative Order No. 20, dated August 6, 1940, which had automatically expired in accordance with section 8 of Act 4003, as amended, are hereby revived, extended and enforced.

2. This Order shall take effect on March 1, 1954.

SALVADOR ARANETA
*Secretary of Agriculture and
Natural Resources*

Recommended by:

For and in the absence of the Director of Fisheries:

HERACLIO R. MONTALBAN
*Chief, Division of Fish Culture
and Fisheries Biology*

Approved by authority of the President:

FRED RUIZ CASTRO
Executive Secretary

FISHERIES ADMINISTRATIVE ORDER No. 39

June 14, 1954

SPECIAL RULES AND REGULATIONS GOVERNING THE ISSUANCE OF FISHPOND PERMITS AND/OR LEASES WITHIN THE AREAS AFFECTED BY THE FISHPOND PROJECT OF MANILA BAY.

Pursuant to the provisions of sections 4 and 63 of Act 4003, the Fisheries Act, as amended, the following special rules and regulations governing the issuance of fishpond permits and/or leases for the special use of public lands for fishpond purposes within the Manila Bay Fishpond Project, are hereby promulgated for the information and guidance of all concerned:

I. WORDS AND TERMS DEFINED

SECTION 1. *Definitions.*—In applying the provisions of this Administrative Order, the words and terms herein used shall be construed as follows:

(a) "Lease" includes all permits and leases agreements.

(b) "Fishpond" means an artificially constructed pond wherein fry or fish of any species and stage are, or may be impounded, cultured and raised.

(c) "Seawall" refers to the wall that will serve to protect the fishpond from the action of the waves from Manila Bay along the line of the proposed road and with the following specifications: base—from 5 to 7 meters (variable); height—from 2 to 2½ meters (variable); width (top)—1.75 meters (fixed), made of concrete or adobe or quarry stones and clay-earth, or any other permanent material that will serve the purpose of a protective seawall.

"River or channel walls" pertains to the walls or dikes that will enclose the areas on the sides under permit and although not subject to any given specifications, must be strong enough to protect the fishpond from the actions of the waves, flood, etc.

"Backwalls" refers to the walls or dikes at the back part of the block or parcel opposite the seawall.

(d) "Project" means the Manila Bay Fishpond Project.

(e) "Cooperative" refers to association or corporation organized under Act 3425, otherwise known as the Cooperative Law, provided that cooperatives may be organized with the primary objective of constructing and maintaining the seawall, river and channel walls, and backwalls of the fishponds and the marketing of its produce.

(f) "Official master plan" refers to the plan prepared by the Bureau of Lands based on the scheme submitted by J. M. Arellano, architect-planner, in accordance with the map of the U. S. Coast and Geodetic Survey No. 4255 (Manila Bay and approaches) showing the different parcels or blocks, together with the proposed canals, waterways, and seawall of the project which may be amended from time to time upon recommendation of the Director of Fisheries and approved by the Secretary.

(g) "Blocks or parcels" refers to the definite blocks or parcels appearing in the official master plan.

(h) "Director", unless otherwise specified, refers to the Director of Fisheries.

(i) "Secretary", unless otherwise specified refers to the Secretary of Agriculture and Natural Resources.

II. PERMITS AND LEASES

SEC. 2. *Use of public land.*—It shall be unlawful to use any portion of the area covered by the Manila Bay Project, for fishpond purposes, without first securing therefor a permit or lease in accordance with the provisions of this Order.

SEC. 3. *Classes of Lease.*—A lease for fishpond purposes issued in accordance with these regulations may be one of the following classes.

(a) *Ordinary fishpond permit* for a block or parcel within the project for a term not ex-

ceeding 1 year renewable for another period of 1 year may be issued by the Director with the approval of the Secretary, subject to the terms and conditions of this order, and to the principal condition that the permittee shall build the seawalls and river and channel walls and backwalls of the particular block or parcel and have them completed within a period of 2 years from the issuance of the original permit.

(b) *Lease agreements* shall only be issued by the Secretary upon recommendation of the Director to permittees upon completion of the construction of the seawalls, river and channel walls, and backwalls for a period of 20 years renewable for another period of 10 years.

SEC. 4. *When permit or lease agreement may be executed.*—No permit or lease agreement shall be executed unless an application therefor has been duly filed with the Bureau of Fisheries and the necessary fees thereof paid. An ordinary fishpond permit or lease agreement for any block or parcel in the project shall be granted only to cooperatives applying for the development of a block or parcel as determined in the "official master plan" of the project.

SEC. 5. *Rights of permittees or lessees.*—Unless otherwise specified, a permit or lease shall confer upon the holder thereof only the right to use for a certain stated period of time the definite block or parcel within the project as described in the permit or lease exclusively for the purpose therein stated and under the terms and conditions therein contained.

SEC. 6. *Maximum area allowed each applicant.*—A cooperative shall be allowed such number of hectares as there are members of the cooperative on the basis of a maximum area of 40 hectares each member, *Provided, however*, that if the block or parcel applied for is in excess of the above requirement, the Director shall require the applicant-cooperative to increase its membership in order to cover up the whole block or parcel. If within 30 days from receipt of the notice to increase membership the cooperative shall fail to comply, the excess area may be made available to other interested applicants or may be declared government reserves.

SEC. 7. *Who are entitled to obtain permits or leases.*—A permit or lease under the project may be issued only to cooperatives duly organized and registered under the existing laws, which embody in their Articles of Incorporation and By-Laws, the requirements and conditions of this Special Rules and Regulations, subject to such amendments as may be made from time to time upon recommendation of the Director and approved by the Secretary. A cooperative having members which are holders of permits or leases from the Bureau of Fisheries shall be barred from acquiring interests in any form within the project.

III. APPLICATIONS

SEC. 8. *Form and contents of application.*—All applications for permit or lease within the project shall be submitted on forms prescribed therefor and shall be accompanied with certified copies of the cooperatives organization and registration papers and other documents relative thereto.

SEC. 9. *Place of filing.*—All applications for fishpond permit or lease for an area within the project shall be filed in the office of the Director of Fisheries, Manila.

SEC. 10. *Fee to accompany application.*—An application must be accompanied by a duly certified check, post office money order, or cash in an amount based on the number of members of the applicant-cooperative at five (P5.00) pesos each member as application fee, payable to the Director of Fisheries, Manila.

SEC. 11. *When application is considered filed.*—An application shall not be considered filed on the date when it is prepared or mailed, but on the date the original thereof is stamped received and duly registered in the Office of the Director of Fisheries, Manila. *Provided however,* that application received without the required application fee, or not fully accomplished, is not considered filed until the said fee is fully paid, or the application is fully accomplished, in which case, the date of receipt of the application fee, or the date when the application is fully accomplished shall be considered the date of filing. Applications filed without the required application fee shall not be recorded in the registry book.

SEC. 12. *Recording of applications.*—All applications received shall be given serial numbers and shall be duly recorded in the registry book provided for the purpose in chronological order.

SEC. 13. *Priority of applications.*—In determining the priority of application of right to a permit or lease, the following rules shall be observed.

(a) Applications within the project duly filed by individuals with the Bureau of Fisheries shall lose all priority claim if they do not regroup themselves into a cooperative and file their corresponding application for a block or parcel, within a period of two (2) months (60 days) from the approval of this order.

(b) If two or more applications are filed for the same area at the time, the applicant with the most number of members and financially capable to convert the area applied for into a fishpond shall have preference to the area.

(c) When two or more applications which have equal priorities for the same area are filed, the first application shall have the right of preference thereto.

SEC. 14. *Conflicting applications when area may be advertised under public auction.*—When the area is covered by two or more conflicting applications, or

when in the opinion of the Director the most equitable disposition of same would be made by public auction, he shall advertise the public auction for the lease and shall make award thereof at such auction to the highest qualified bidder in accordance with section 7 thereto.

IV. FEES AND RENTALS

SEC. 15. *Schedule of fees and rentals.*—The application fee shall be P5 per member of the cooperative.

The annual rentals for blocks with seawall per hectare or fraction thereof shall be P5 for the first and second years and P10 beginning with the third year.

The annual rentals for blocks without seawall per hectare or fraction thereof shall be P40 for the first two years only and P10 thereafter.

Additional rental shall be charged on appraisals made in accordance with section 19 thereof.

SEC. 16. *Rental: when due and payable.*—The initial rental shall accrued on the first day of the quarter in which the permit or lease agreement becomes effective and shall be paid in advance in the manner prescribed in the following paragraph prior to the issuance of such permit or lease. After the initial rental is paid, the annual rental shall become due and payable on the first day of January of each year, unless otherwise provided.

SEC. 17. *Rental: to whom payable.*—Payment of rental shall be made to the Director of Fisheries, Manila.

SEC. 18. *Rental: Certificate of payment.*—Upon payment of any fee or rental, a permittee, lessee or applicant, as the case may be, shall secure an official receipt from the collecting officer of the Bureau of Fisheries, Manila.

SEC. 19. *Appraisal and reappraisal.*—The rental prescribed in section 16 hereof shall be subject to change, based on the appraisal or reappraisal of the land under lease and its improvements, by the Director of Fisheries or his duly authorized representative, approved by the Secretary of Agriculture and Natural Resources, as the case may be. *Provided,* That the rental for the ensuing term, if an appraisal or reappraisal has been made, shall not be less than 3 per centum of the appraised or reappraised value of the land, and 1 per centum of the value of the improvements: *Provided, however,* that the Secretary, in his discretion may waive the collection of the latter charges: *Provided, further,* That a reappraisal may be made on the 10th year, and every 5 years thereafter, and that in no case shall the rental based on appraisal or reappraisal be less than P10 after the tenth year and P15 after the fifteenth year.

The Director of Fisheries may request the assistance of the assessor of any province or city, or may

appoint a committee for the appraisal or reappraisal required herein.

SEC. 20. *Additional charges for default in payment of rentals for permits expiring December 31st.*—Failure to pay the annual rental on or before January 31 shall subject the permittee or lessee to an additional charge based on the amount of the original rental according to the following schedule:

	Per cent surcharge
Rental paid from February 1 to March....	15
Rental paid from July 1 to Sept. 30.....	20
Rental paid from July 1 to Sept. 30.....	25
Rental paid from Oct. 1 to Dec. 31.....	50
Rental paid after one year.....	100

In the case of permit expiring on dates other than December 31st, the additional charge shall be computed and adjusted accordingly following the above schedule.

V. BONDS

SEC. 21. *Form of Bond.*—Before any permit is issued or entered into between the government and the applicant, the latter shall, as guaranty of good faith in filing the application and for satisfactory compliance with the Fishery laws and the regulations promulgated thereunder, including the building of the walls, and the terms and conditions of the permit or lease and the payment of the rental and additional charges due as provided in sections 15, 19, and 20 hereof, be required to deposit with the Director of Fisheries, a cash bond, in accordance with the rate fixed in the following section: *Provided, however,* That for any amount of bond deposit required or any part thereof, a certificate of guaranty of deposit account in the Philippine Postal Savings Bank in accordance with the postal laws, or bond issued by the Philippine National Bank or similar bond may be accepted: *Provided, further,* That in case the cash bond required amounts to P200 or more, a surety bond duly executed by a surety company may be accepted which shall be increased by not less than 25 per cent nor more than 50 per cent in the discretion of the Director of Fisheries. Should the bond delivered be not satisfactory to the Director, the lessee may be required to furnish a new bond or bonds within 30 days upon demand in sureties that are solvent and satisfactory.

SEC. 22. *Schedule of bond.*—The bond deposit required for fishpond permits and lease agreements shall be P10 per hectare or fraction thereof: *Provided,* That at the end of 2 years if the permittee or lessee shall have made valuable permanent improvements on the premises and it had satisfactorily complied with all the requirements of the law and regulations and terms of the permit or lease, including payment of annual rentals on time, and complete construction of seawalls, river and channel walls, and backwalls, the bond may be reduced to P5 per hectare or fraction thereof; or after 2 years

waive it entirely, if the improvements and payments of rentals warrants.

SEC. 23. *Forfeiture of bond.*—The Director of Fisheries may confiscate or forfeit a bond or part thereof, to the government for any of the following reasons:

(a) Failure to fulfill any condition and requirement under which the permit or lease is issued;

(b) Failure to pay the rentals due; or

(c) Violation of any provision of the Fisheries Law or this Administrative Order or any term of the permit or lease.

SEC. 24. *Refund or transfer of bond deposit.*—Any bond or any residue or part thereof may be refunded upon the request of the permittee, assignee, or administrator, and upon the return of the official receipt or receipts issued therefor, for which, if lost, an affidavit stating the circumstances of the loss may be submitted. The request and designation of any assignee of a permittee for the refund or the transfer of a bond deposit shall be subject to the approval of the Auditor General.

VI. EXPIRATION: RENEWAL OR EXTENSION

SEC. 25. *Date of expiration of permit or lease.*—Yearly permits shall expire within one year from the date of issue and which date shall be specified thereon.

SEC. 26. *Extension or renewal.*—Application for renewal or extension shall be submitted to the Director of Fisheries, accompanied by a postal money order or cash sent by insured registered mail covering the rental for the following year or for the period to be covered by the renewal or extension.

(a) A permit or lease renewed as herein below provided shall be subject to the same conditions imposed in the original one, as well as to such additional conditions as the Director or the Secretary may impose as the case may be.

(b) An ordinary fishpond permit issued under these regulations may be renewed upon the expiration of the term granted therein for another period not exceeding that for which the original was issued. Further renewals may be granted as the case may require and public interests would warrant.

(c) A fishpond lease agreement shall run for a period of 20 years, but may be renewed for another period of 10 years. After the expiration of these terms (30 years) no further renewal shall be allowed.

SEC. 27. *Return of expired permit or lease agreement.*—If payment or rentals is not made on or before the expiration of the permit or application for its renewal is not submitted within thirty (30) days after the expiration, or for certain reason it cannot be further extended, same must be returned to the Director of Fisheries, Manila, and the area shall be vacated.

VII. APPROPRIATION OF REVENUE

SEC. 28. *Collection and appropriation.*—Eighty per cent of the revenue which accrue to the National Government in accordance with the provisions of this Administrative Order shall be paid and credited to the Bureau of Fisheries and appropriated in accordance with the provisions of sections 65 and 66 of Act 4003, known as the Fisheries Act, as amended; and 20 per cent of the revenue shall be paid and credited to the respective municipal council.

VIII. GENERAL PROVISIONS

SEC. 29. *General conditions under which permits or leases are issued.*—Every permit or lease shall be governed by the provisions of this Administrative Order, as well as by those which may hereafter be issued aside from the terms and conditions which may be stipulated in the application, permit or lease, especially by the following terms and conditions:

(a) *Power of the Director or Secretary.*—The permits or leases limit in no way the power of the Director or Secretary to reserve any area within the project and to impose such terms as it may consider necessary for public interest in the use of the block or parcel granted.

(b) *Permittee or lessee shall comply with general regulations particularly, construction of seawall, river and channel walls, and backwalls.*—The permittee or lessee agrees unconditionally to comply with all the rules and regulations governing fisheries now or hereafter in force for the proper use of the area granted, particularly, to answer for the construction of the seawall, river and channel walls and backwalls, in accordance with the specifications.

(c) *No title acquired.*—A permittee or lessee shall have no right to a title or claim of any sort whatsoever on the land and the seawalls and river and channel walls covered by the permit or lease. No such land shall be deemed to be occupied within the meaning of the Public Land Act but shall remain under the administration and supervision of the Director of Fisheries in consonance with the provisions of the Fishery Laws and Regulations.

(f) *Survey and location of fishpond blocks.*—The staking out of the corners of the blocks or parcels, in accordance with the official master plan, may be executed by the Bureau of Lands, at the expense of the lessee or permittee, or by a licensed private land surveyor with the approval of the Director of Lands.

(g) *Adjudication of area and damage.*—The Director of Fisheries or the Secretary of Agriculture and Natural Resources, as the case may be, shall not be responsible for any loss occasioned by an adjudication of the area in favor of any claimant by the competent court and the permittee or lessee shall have no right to claim for damages arising from such decision.

(h) *Statements in application as part of conditions of lease.*—Any or all of the statements made in the corresponding application shall be considered as essential conditions and parts of the permit or lease issued. Any false statement in the application or material omissions of facts, altering, changing, or modifying the consideration of any or all the conditions mentioned therein shall *ipso facto* cause the cancellation of the permit or lease.

(i) *Exclusive privilege.*—No license or permit which may be detrimental to the interest of the permittee or lessee shall be granted to other parties to exploit any other resources within the area granted.

(j) *Free access of area.*—The Secretary of Agriculture and Natural Resources or any of his authorized representatives shall have free access at all time to the land which is the subject of the permit or lease.

(k) *Public roads and canals.*—All the existing roads, trails, canals, and other means of transportation which pass through or adjoin the area under permit or lease shall be kept from obstruction of all kinds for public use. The width of canals separating sidewalls and backwalls must be maintained at a minimum of 120 meters wide.

(l) *Free navigation.*—The permittee or lessee shall not obstruct the free navigation of rivers, canals, creeks and any stream adjoining or flowing through the area, prohibit or interfere with the passage of people along them or the banks thereof, or impede the flow and ebb of the tide to and from the interior of the swamps.

(m) *Conflicts between applicants, permittees and claimants.*—In case of any conflict between applicants, permittees, lessees and/or claimants, the Director of Fisheries shall decide the matter after investigation has been made and a report thereof has been received except when the issue raised are of law and not of facts and the case can be properly decided without investigations.

All actions of the Director approving, rejecting, reinstating or cancelling an application, or deciding a conflict shall become final after 30 days from the date a copy thereof is received by the interested party, unless a motion for reconsideration is filed or an appeal therefrom is taken to the Secretary in accordance with the standing rules and regulations governing such matters.

(n) *Disposition of improvements*—

(1) The grantee shall have no right by virtue of said permit or lease, to claim reimbursement for the expense incurred for improvement for whatever kind which he may have introduced on the land, before or after the expiration of the permit or lease, including the seawalls, river and channel walls, and backwalls.

(2) Upon the expiration or cancellation of the permit or lease, the improvements existing

thereon shall become the property of the government.

(3) Such improvements shall be appraised accordingly and in case the area is granted to another permittee or lessee, the new grantee shall either rent them or pay the government the price thereof from which any amount due the government and the expense incurred in the sale shall be deducted. The former permittee or lessee shall be entitled to the reimbursement of the residue of the proceeds of the sale.

SEC. 30. *Duties of permittees and lessees.*—Every permittee or lessee shall be governed by, and subject to, these regulations. Among his duties shall be:

(a) To take precaution as may be necessary to prevent damage or destruction to the public lands.

(b) To accept responsibility for any damage or destruction to the public lands covered by his permit or lease which may be caused by his operation or by his agent, representative, or workmen, such damage or destruction to be assessed by the proper officials.

(c) To submit to the Director in duplicate in a proper prescribed form a quarterly report of his catch of fish made during the quarter, within the first 10 days of the month following the quarter for which the report is made, and any other statement on his operations as may be required from time to time.

(d) To report to the Director of Fisheries:

(1) The name and address of any person found using explosives or poisonous substances in fishing within or adjoining the area covered by the permit;

(2) The place and date of explosion or using of poisonous substances; and

(3) The kind and quantity of fish killed or gathered as a result of the use of explosives or poisonous substances.

(e) To supervise the operation of the employee, either personally or through competent agents, whose names, addresses, and numbers of residence certificates for the current year shall be sent to the issuing officer or to the Director of Fisheries, Manila.

(f) To assume responsibility for any and all acts of his agents and employees, contractors and employees of the contractors connected with his operation.

(g) To keep records of transaction in connection with his permit or lease as may be required

(h) To permit at any time the Director or Secretary or their duly authorized representatives to inspect all the records having any bearing on the data or information required in connection with his operation as a permittee or lessee, with

the understanding that the information thus obtained shall be considered as confidential.

(i) To appear and to be present or to send a representative whenever required by the duly authorized representative of the Director during an inspection of the area under permit or lease or in the investigation of matters pertaining thereto.

IX. REJECTION, SUSPENSION OR CANCELLATION

SEC. 31. *Suspension or cancellation.*—The application, permit or lease may be suspended or cancelled for any of the following reasons:

(a) Serious or continued violation of the Fisheries Laws, the special regulations promulgated thereunder and the terms of the permit or lease.

(b) Repudiation or abandonment of the area granted.

(c) Request of the permittee or lessee.

(d) When the public interests so require.

(e) Failure to pay without justifiable cause, the fee, rental, additional charges, or/and bond deposit as provided herein or within 120 days from the date the required fee, rental and bond deposit become due and payable, without prejudice to any action the Government take to recover the amount due.

The cancellation of the permit for any of the causes mentioned in paragraphs (a), (b), or/and (c) hereof shall carry with it the forfeiture of the bond to the government.

The cancellation of a permit or lease agreement shall be made by the Director of Fisheries.

SEC. 32. *When a transfer of sub-lease of area and improvements may be allowed.*—If the permittee or lessee had, unless otherwise specifically provided, hold the permit or lease and actually operated and made improvements on the area for at least one year, it may request permission to sub-lease or transfer the area and improvements under certain conditions.

(a) *Transfer subject to approval.*—A sub-lease or transfer shall only be valid when first approved by the Director of Fisheries under such terms and conditions as may be prescribed, otherwise, it shall be null and void. A transfer not previously approved or reported shall be considered sufficient cause for the cancellation of the permit or lease and forfeiture of the bond and for granting the area to a qualified applicant or bidder, as provided in sub-section (g) of section 29 of this Order.

X. LEGAL PROCEEDINGS AND PENALTY

SEC. 33. *Authority of the Director of Fisheries—*

(a) *Administrative action.*—The Director of Fisheries may take administrative action for the recovery of damages caused by unintentional violation.

(b) *Civil action.*—Unless otherwise instructed or provided, all cases requiring the institution of

civil proceedings shall be reported to the Director of Fisheries, Manila, for reference to the Solicitor General or the proper authority, as the case may be, for action.

(c) *Criminal Action.*—For the purposes of this Administrative Order, fishery inspectors shall file the necessary criminal complaints in courts or shall submit a report thereof to the Director for appropriate action, as the case may be.

SEC. 34. *Illegal occupation of public lands or construction of fishponds.*—Any person, who shall violate any of the provisions of this Order by occupation or construction of fishpond within the project, shall be liable to prosecution and upon conviction shall suffer the penalty provided in section 83 of Act 4003, as amended, which is a fine of not more than P200 or imprisonment of not more than 6 months, or both, in the discretion of the court. If the violation includes any construction constituting an encroachment upon waters in violation of public rights, the removal thereof shall be effected by or under the order and direction of the Director.

XI. FINAL PROVISIONS

SEC. 35. *Repealing provision.*—All existing rules and regulations governing fishpond applications, permits or leases, inconsistent with these provisions, as they apply to the project, are hereby revoked; and all pending applications except permits and leases, duly issued prior to the approval of this Administrative Order shall be subject to, and governed by the provisions of this Administrative Order.

SEC. 36. *Date of taking effect.*—This Administrative Order shall take effect upon its approval. (June 14, 1954).

SALVADOR ARANETA
*Secretary of Agriculture and
Natural Resources*

Recommended by:

D. V. VILLADOLID
Director of Fisheries

Department of Public Works and Communications

RADIO CONTROL BOARD

DEPARTMENT ORDER NO. 10
Series of 1954

May 21, 1954

AMENDMENT TO SECTION 33 OF DEPARTMENT ORDER NO. 103, SERIES OF 1952, PROMULGATING RULES AND REGULATIONS GOVERNING THE AMATEUR RADIO SERVICE IN THE PHILIPPINES.

SECTION 1. Section 33 of Department Order No. 103, series of 1952, dated June 28, 1952, is hereby amended to read as follows:

"SEC. 33. *Communication with Foreign Countries Prohibited.*—Communication between amateur stations in the Philippines and those in foreign countries is prohibited, except with those in foreign countries with which the Philippines has existing treaties of amity and friendship, provided that communication shall also be allowed with amateur stations operated by American citizens in the United States of America and in foreign countries when such operation is duly authorized by the United States Government.

SEC. 2. All rules and regulations inconsistent herewith are hereby revoked.

SEC. 3. This Department Order shall take effect on May 21, 1954.

VICENTE OROSA
*Acting Secretary and Chairman
Radio Control Board*

Department of Labor

DEPARTMENT OF LABOR SAFETY ORDER NO. 18

April 8, 1954

SUBMISSION OF DIAGRAMMATICAL PLANT LAYOUTS, FOUNDATION PLANS, AND DETAILED WORKING DRAWINGS.

By virtue of the authority vested in me by Commonwealth Act No. 104, as amended, and pursuant to the provisions of section 572 of article V of the Revised Administrative Code and upon the recommendation of the Advisory Safety Council of this Department, the following rules and regulations pertaining to the submission of diagrammatical layouts of industrial plants, including shops, factories, bodegas, warehouses, and other industrial enterprises, or any part of its works, processes or operations; foundation plans of internal combustion engines and steam boilers to be installed and their respective accessories, and detailed working drawings of steam boilers, and the corresponding service fees for same, are hereby promulgated:

1. Owners, managers, agents, lessees, or any other person in control of all industrial plants and industrial enterprises, as stated above, whether existing or to be constructed, and in the case of the latter, before construction work begins, shall submit to the Industrial Safety Engineering Division of this Department, 2 copies of the diagrammatical layouts of their plants showing all their physical features, and detailed working drawings of their boilers and internal combustion engines, preferably in white print, and at a standard scale for safety checking and safety approval.

2. For this work which includes safety checking and safety approval, the following service fees, which shall be paid before action on any plan is taken, shall be charged and collected:

(a) For foundation plan of each internal combustion engine and steam boiler to be installed and their respective accessories, and for each detailed drawing of steam boilers	P5.00
(b) For every industrial plant and other industrial enterprise, including storage areas, having an area not exceeding 50 square meters	5.00
(c) For every square meter in excess of the 50 square meters as stated in (b) above	0.05
(d) For every detailed drawing of iron grilles, screens or window bars	2.00

The above rules and regulations shall take effect on this date.

ELEUTERIO ADEVOSO
Secretary of Labor

Department of Commerce and Industry

CIVIL AERONAUTICS ADMINISTRATION

ADMINISTRATIVE ORDER No. 37
Series of 1954

Pursuant to the provisions of section 32, paragraph 9, 12, and 19, Republic Act No. 776, approved June 20, 1952, the following rules and regulations are hereby promulgated for the observance of all persons concerned:

This Administrative Order shall be known as Civil Air Regulations, Part 15, governing Aeronautical Information Services, and any reference to said title shall mean as referring to this Administrative Order.

CHAPTER 1.—DEFINITIONS

When the following terms are used in this Part, they shall have the following meanings:

Note.—An asterisk (*) before a term or provision indicates that some is of local origin, as distinguished from the ICAO term or standard and recommended practice.

* *Administrator.*—The Administrator of the Civil Aeronautics Administration (CAA).

* *Aeronautical Information Publication—Philippines.*—A publication issued and prepared by or with the authority of the Civil Aeronautics Administration containing aeronautical information of a lasting character essential to air navigation.

ICAO.—Abbreviation for "International Civil Aviation Organization."

* *International Airport.*—Any airport designated as an airport of entry and departure for international air traffic, where the formalities incident to customs, immigration, public health, agricultural quarantine, and similar procedures are carried out.

* *CAA International NOTAM Office.*—An office in the CAA designated to take charge of the exchange of NOTAMS internationally.

Maneuvering Area.—That part of an aerodrome to be used for the take-off and landing of aircraft and for the movement of aircraft associated with take-off and landing.

Movement Area.—That part of an aerodrome intended for the surface movement of aircraft.

NOTAM.—A notice containing information concerning the establishment, condition, or change in any aeronautical facility, service, procedure or hazard, the timely knowledge of which is essential to personnel concerned with flight operations.

Class I Distribution.—Distribution by means of telecommunication.

Class II Distribution.—Distribution by means other than telecommunication.

Route Segment.—A route or portion of a route usually flown without an intermediate stop.

CHAPTER 2.—GENERAL

2.1 *Responsibilities and Functions.*—Unless otherwise delegated to a non-governmental agency, under proper authority, there shall be established an Aeronautical Information Service in the Civil Aeronautics Administration. Such service shall discharge its responsibilities and functions with the cooperation of other government offices or agencies concerned therewith. The non-governmental agency, if duly delegated to absorb the responsibilities and functions provided in this CAR, shall be governed by the provisions hereof.

2.1.1 The aeronautical information service shall collect, collate, edit, and publish aeronautical information concerning the Philippines, and this shall include:

(a) the preparation of Aeronautical Information Publications (AIP);

(b) the origination of NOTAMS.

2.1.2. The aeronautical information service shall, in addition, obtain information to enable it to provide pre-flight and in-flight information service:

(a) from the aeronautical information services of other States; and

(b) from other sources that may be available.
(*Note.*—One such source is the subject of a provision in 5.2.1)

2.1.3 The aeronautical information service shall make available to the aeronautical information services of other States any information necessary for the safety, regularity, or efficiency of air navigation, required by them.

2.1.4 The aeronautical information service shall ensure that information necessary for the safety, regularity, or efficiency of air navigation is available in a form suitable for the operational requirements of:

(a) flight operations personnel, including flight crews and the services responsible for pre-flight information;

(b) the services responsible for in-flight information; and

(c) the services responsible for post-flight information.

2.2 Adequacy and Authenticity

2.2.1 All reasonable measures shall be taken to ensure that the information relating to the Manila Flight Information Region is adequate and accurate.

* 2.2.2. Aeronautical information published by virtue of this CAR is under the authority of law, expressed in Republic Act 776, section 32, paragraph 12.

2.2.3 The aeronautical information obtained under 2.1.2 (a) shall, when disseminated, be clearly identified as having the authority of the State of origin.

2.2.4 The aeronautical information obtained under 2.1.2 (b) shall, if possible, be verified before dissemination and if not verified shall, when disseminated, be clearly identified as such.

2.3 Exchange of Aeronautical Information

2.3.1 The International NOTAM Office, Civil Aeronautics Administration, shall be the office to which Aeronautical Information Publications and NOTAMS of foreign countries are to be addressed.

* 2.3.2 The extent of responsibility and the territory covered by the Manila International NOTAM Office coincides with the Manila Flight Information Region, which is the area bounded by the following coordinates:

Beginning at 04° 00' north, 133° 00' east to 04° 00' north, 120° 00' east to 11° 00' north, 115° 00' east to 18° 00' north, 115° 00' east to 21° 00' north, 117° 30' east to 21° 00' north, 133° 00' east then back to 04° 00' north, 133° 00' east.

2.3.3 The aeronautical information service shall arrange, as necessary, to satisfy operational requirements, for the issuance and receipt of NOTAMS distributed by telecommunication.

2.3.4 The aeronautical information service may make direct contact with the aeronautical information services of other States in order to facilitate the exchange of aeronautical information.

2.3.5 The interchange of aeronautical information should be on a free basis and at least one copy of each Aeronautical Information Publication and amendments thereto that have been requested by an aeronautical information service should be made available without charge.

2.4 General Specifications

2.4.1 Aeronautical Information Publications and NOTAMS shall be issued in English.

2.4.2 Place names shall be spelled in conformity to local usage.

2.4.3 Dimensional units used in the dissemination of aeronautical information shall be consistent with the BLUE TABLE (Civil Air Regulations, Part 5—Dimensional Units).

2.4.4 *Abbreviations*.—An approved list of abbreviations appears in Civil Air Regulations, Part 10—Communication Codes and Abbreviations.

CHAPTER 3.—AERONAUTICAL INFORMATION PUBLICATIONS

3.1 Contents

3.1.1 The Aeronautical Information Publication shall contain information relating to, and arranged under, the subjects enumerated herein:

3.1.1.1 Aerodromes (AGA)

(a) Brief description of types of traffic permitted and customs, immigration, and health clearances at international airports.

(b) Detailed description of aerodromes available for use by international commercial air transport for traffic, technical, or diversionary purposes.

(c) Brief description of all aerodromes open to public use as well as those of privately-owned aerodromes.

(d) Brief description of aeronautical beacons (including aerodrome beacons, hazard beacons, identification beacons and other light beacons designating a geographical position).

3.1.1.2 Communication (COM)

(a) Description of stations providing aeronautical mobile and/or aeronautical navigation services, and selected public broadcasting stations.

(b) Description of stations associated with special navigation systems (LORAN, GEE, DECCA, etc.);

3.1.1.3 Meteorology (MET)

A brief description of meteorological services provided for international aviation. This should include:

(a) List of international index numbers of meteorological stations;

(b) Description of meteorological offices;

(c) Special responsibilities of meteorological offices;

(d) Description of meteorological broadcasts for aircraft;

(e) List of meteorological offices and meteorological stations for which meteorological and climatological summaries are available.

3.1.1.4 Air Traffic Rules and Services (RAC)

(a) Rules of the air and air traffic control procedures;

- (b) Altimeter setting procedures;
- (c) Air traffic control scheme, including descriptions of:

- i. flight information regions, control areas, and advisory areas (including airways and advisory routes);
- ii. controlled aerodromes and control zones.

- (d) Approach and departure procedures;
- (e) Airspace restrictions—prohibited, restricted, and danger areas.

3.1.1.5 *Facilitation (FAL)*

Entry and transit of civil aircraft on international flights.

3.1.1.6 *Search and Rescue (SAR)*

(a) Description of the areas of responsibility for search and rescue operations, the description of rescue coordination centers, and location of rescue units.

(b) Any special procedures to be employed by aircraft in distress, including signals to be used in communications between rescue aircraft and aircraft in distress.

3.1.2 Charts, maps, or diagrams should be used, when appropriate, to complement the tabulations or text of Aeronautical Information Publications. Charts produced should be, as much as possible, in conformity with ICAO standards. When a chart, map, or diagram which provides all the information prescribed for one subject is included in an Aeronautical Information Publication, no list or other description is required.

*3.1.3 The Philippine Aeronautical Information Publication should be contained in a single volume, subdivided into *parts*, according to subjects.

3.2 *Specifications*

3.2.1 Each *part* of the Aeronautical Information Publication shall be self-contained and shall include a table of contents. A table of contents for the whole volume shall also be included.

3.2.2 The publication shall be published in loose-leaf form unless the complete publication is re-issued at frequent intervals.

3.2.3 The Aeronautical Information Publication shall be amended or re-issued at such intervals as may be necessary to keep it up-to-date.

3.2.3.1 The amendments shall be issued in the form of replacement sheets, when deemed necessary.

3.2.4 Each page of the Aeronautical Information Publication shall be dated. The date shall indicate clearly the day, month, and year when the aeronautical information was last confirmed.

3.2.5 A check list giving the current date of each page in the Aeronautical Information Publication series shall be issued periodically (on the 1st day of January, April, July, and October of every year) to assist the user in maintaining a current publication, unless the publication is re-issued frequently.

3.2.6 Each Aeronautical Information Publication issued as a bound volume and each page of an

Aeronautical Information Publication issued in loose-leaf form shall be so annotated as to clearly indicate:

(a) the identity of the Aeronautical Information Publication;

(b) territory covered and subdivisions when necessary;

(c) identification of issuing State and producing organization (authority);

(d) page numbers, when applicable;

(e) degree of reliability if the information is doubtful.

3.2.7 Tabulations and lists of facilities should be arranged alphabetically.

3.2.8 The sheet size should be 21 by 27 centimeters (8 by 10½ inches) except that larger sheets may be used provided they are folded to the same size.

CHAPTER 4.—NOTAMS

4.1 *Origination*

4.1.1 A NOTAM shall be originated and issued promptly whenever the information to be disseminated either is of a temporary nature or would not be made available with sufficient rapidity by the issue of, or amendment to, an AIP.

4.1.1.1 The need for origination of a NOTAM should be considered in any of the following circumstances:

(a) the establishment or withdrawal of electronic and other aids to air navigation and aerodromes;

(b) interruption or return to operation, change of frequencies, change of identification, change of orientation (directional aids), change of location, power increase or decrease amounting to 50 per cent or more, change in broadcast schedules or contents, or irregularity or unreliability of operation of any electronic aid to air navigation, and air-ground communication services;

(c) interruption or return to operation of aerodrome lighting system;

(d) occurrence or removal of temporary obstructions to aircraft operations in the maneuvering area;

(e) occurrence or correction of defects in the movement area;

(f) presence or removal of hazardous conditions due to mud or water on the movement area;

(g) interruption or return to service of refuelling services;

(h) changes in procedures for air traffic, air navigation, and instrument approach-to-land procedures;

(i) presence of free or fixed balloons or other uncontrolled aircraft;

(j) mass movements of aircraft;

(k) military maneuvers which may affect air navigation;

(l) changes in the status of search and rescue services;

(m) interruption or return to operation of light beacons and lights marking obstructions to air navigation;

(n) changes in entry regulations requiring immediate action;

(o) availability of new maps and charts;

(p) any other significant circumstance.

4.1.2 NOTAMS concerning foreseeable conditions shall, when possible, be originated sufficiently in advance of the occurrence to enable appropriate action to be taken by all concerned.

4.1.2.1 NOTAMS concerning any change in procedure for air navigation that would necessitate changes in operating practices, shall be issued sufficiently well in advance of the effective date to permit aircraft operators to make adequate arrangements.

* 4.1.3 Responsibility for the origination of NOTAMS shall rest with the facility having jurisdiction over the territory in which circumstances make the NOTAMS necessary and shall be originated as soon as practicable after the information is available.

* 4.1.3.1 The following are authorized to originate information by NOTAM:

(a) Administrator or Deputy Administrator;

(b) Chiefs of special staff sections;

(c) Chiefs of divisions;

(d) Aeronautical Information Service (AIS) Officer;

(e) International NOTAM Officer;

(f) Airport managers, officers-in-charge, or caretakers;

(g) Chiefs of facilities;

(h) Flight operations officers of military air services;

(i) Maintainers of obstruction lights.

* 4.1.3.2 In the absence of any of the above, the senior ranking employee on duty is authorized to originate such NOTAMS and for all other actions required in connection therewith.

* 4.1.4 NOTAMS for Class II distribution shall be prepared by the International NOTAM Officer for the signature of the Administrator or, in his absence, the Deputy Administrator.

4.2 Distribution

4.2.1 A NOTAM shall be given either Class I distribution or Class II distribution or both.

4.2.1.1 A NOTAM shall be given Class I distribution when the information is of direct operational significance to addressees who cannot be given sufficiently rapid notification by other means. Urgent advices for safety reasons shall be transmitted to:

(a) all inbound and outbound aircraft (in plain language);

(b) adjacent air-ground radio stations (who will retransmit to any aircraft whose safety may be affected);

(c) air traffic control centers and/or terminal stations associated with the route or section of the route.

* 4.2.1.2 When a NOTAM which may affect the safety of an aircraft has been issued, either by direct transmission to one or more aircraft or by broadcast, it is the responsibility of the communicator or controller on duty to secure an acknowledgment of receipt of such NOTAM from every incoming aircraft whose safety may be affected. This provision applies irrespective of whether the NOTAM has been passed previously to other air-ground stations, ATC centers, or terminals.

4.2.1.3 A NOTAM shall be given Class II distribution:

(a) whenever it does not qualify for Class I distribution under the conditions established by 4.2.1.1; or

(b) when the duration of circumstances notified by a Class I distribution warrants confirmation.

* NOTAMS given Class I distribution expected to remain current for more than 7 days shall be confirmed by Class II distribution.

4.2.2 The aeronautical fixed telecommunication network (AFTN) shall, whenever practicable, be employed for Class I distribution.

4.2.3 The originating office and the International NOTAM Office shall select the NOTAMS that are to be given international distribution. * The following NOTAMS shall be given international distribution:

(a) those pertaining to the Manila International Airport and the facilities serving it, except outages of the inner locator or outer locator if either the Rosario Homer or the Manila Range or both are operative;

(b) those pertaining to the Cebu Aerodrome;

(c) those pertaining to Clark Field and Sangley Point;

(d) those pertaining to airspace restrictions and other hazards to international flights;

(e) those pertaining to the commissioning of new facilities or aerodromes; and decommissioning of facilities and closing out of aerodromes;

(f) those pertaining to other matters involving international flights.

4.2.4 The International NOTAM Office may exchange NOTAMS given Class I distribution with other International NOTAM Offices.

4.2.4.1 Exchange with International NOTAM Offices shall be limited to those responsible for serving the route segments affected, except that when the application of this principle would impair the safety or seriously affect the efficiency of aircraft operation, the International NOTAM Office shall arrange, as necessary, for a wider distribution.

* 4.2.5 NOTAMS considered of sufficient importance to warrant additional dissemination shall be broadcast on the frequencies utilized for scheduled

weather broadcasts. Appropriate NOTAM Code groups (Appendix B) and/or contractions, if the condition cannot be described by a code group, shall be placed at the end of each weather report which originates at the location of the affected navigational aid or aerodrome served by the aid.

* 4.2.6 *NOTAM Boards*.—A NOTAM Board, for the display of current NOTAMS, shall be provided at each of the following:

- (a) at the International NOTAM Office;
- (b) at the Air Route Traffic Control Center;
- (c) at the Manila Overseas Foreign Aeronautical Communication Station;
- (d) at the Civil Aeronautics Administration radio stations;
- (e) at Briefing Centers.

It shall be the duty of the officer responsible for originating or receiving NOTAMS to ensure that a copy of each current NOTAM is posted immediately on the local NOTAM Board, and that all obsolete NOTAMS are promptly removed therefrom.

4.3 *General Specifications*

4.3.1 Each NOTAM shall be as brief as possible and so compiled that its meaning is clear without reference to another document.

4.3.1.1 Several NOTAMS may be included on a single sheet or in a single telecommunication message, provided that they are clearly separated.

4.3.2 Any information contained in NOTAMS, which renders necessary an amendment to an Aeronautical Information Publication, shall be confirmed by a formal amendment or revision of that publication.

4.3.2.1 NOTAMS may include references, where appropriate, so that the information contained in NOTAMS may be used for annotating Aeronautical Information Publications.

4.3.3 Place name abbreviations included in the text of a NOTAM shall conform to the official ICAO list.

4.3.3.1 In no case shall a curtailed form of such abbreviation be used.

4.3.3.2 Where no ICAO place name abbreviation is assigned to the location, the name of the place spelled in accordance with 2.4.2 shall be entered in plain language.

4.3.4 A check list of NOTAMS currently in force shall be issued at intervals of not more than one month in the case of NOTAMS given Class I distribution, and not more than six months in the case of NOTAMS given Class II distribution.

4.4 *Specifications for Class I Distribution*

4.4.1 Each NOTAM in a series of NOTAMS given Class I distribution internationally shall be allocated a serial number by the originator. That number shall be consecutive and based on the calendar year.

* 4.4.1.1 In order to avoid duplication in the numbering of NOTAMS originated in the Manila Area,

the Manila Overseas Foreign Aeronautical Communications Station (OFACS) shall assign the necessary serial numbers consecutively for all NOTAMS originated by facilities serving the Manila International Airport. The originating facility chief shall then be promptly advised of the number thus assigned so as to facilitate future reference thereto.

4.4.2 NOTAMS intended for Class I distribution shall be prepared in conformity to the relevant provisions of Civil Air Regulations on Communications Procedures.

4.4.3 The ICAO NOTAM Code (Appendix B) or authorized abbreviations shall be used in the composition of NOTAMS transmitted over the International Aeronautical Telecommunication Service other than by radiotelephony, except when plain language is essential to a clear understanding.

4.4.4 The text of each NOTAM given Class I distribution shall contain the following in the order listed:

- (a) the originator's reference consisting of the abbreviation NOTAM and the originator's serial number (see 4.4.1 and 4.4.1.1);
- (b) the identification of the location of the facility or condition being reported upon using the ICAO place name abbreviation, when appropriate (see 4.3.3.2);
- (c) the information in the form specified in 4.4.3;
- (d) applicable date(s) and time(s) expressed as a six-figure group in GMT.

NOTE.—Example of text:

(a)	(b)	(c)	(d)
NOTAM 18 DUMA QOAO 061800 180500			

Meaning.—NOTAM number 18 of the current year—Manila land aerodrome closed to all night operations from 1800 hours GMT on the 6th day of the present month to 0500 hours GMT on the 18th day of the same month.

4.5 *Specifications for Class II Distribution*

4.5.1 Each NOTAM in a series of NOTAMS given Class II distribution internationally shall be allocated a serial number by the originator. That number shall be consecutive and based on the calendar year.

4.5.1.1 Serial numbers shall be given in the top-right-hand corner of the front page. When more than one NOTAM is given on a single sheet, all serial numbers shall be so indicated.

* 4.5.1.2 A national NOTAM given Class II distribution shall, in addition to its serial number, carry the letter "N" suffixed to the number to indicate that the NOTAM is intended only for national distribution, e.g., "8-N/54". The number shall also be consecutive and based on the calendar year.

4.5.2 When the NOTAM is sent in confirmation of a NOTAM given Class I distribution, it shall include a reference to the serial number of the earlier NOTAM.

4.5.3. Sheet size shall be 21 by 27 centimeters (8 by 10½ inches).

CHAPTER 5.—PRE-FLIGHT AND POST-FLIGHT INFORMATION

5.1 *Pre-Flight Information*

5.1.1 At any aerodrome, normally used for international air operations, aeronautical information essential for the safety, regularity, and efficiency of air navigation and relative to the route segments originating at the aerodrome, shall be made available to flight operations personnel including flight crews and services responsible for pre-flight information.

5.1.2 Aeronautical information held at aerodromes for pre-flight planning purposes should include details relating to:

- (a) air routes;
- (b) regulations concerning entry and transit of civil aircraft on international flights;
- (c) aerodromes available to international aviation;
- (d) air navigation aids and mobile communication facilities;
- (e) meteorological facilities;
- (f) rules of the air and air traffic control procedures;
- (g) controlled and restricted airspace;
- (h) hazards to air navigation;
- (i) search and rescue facilities;
- (j) survival information;
- (k) appropriate maps and charts;
- (l) current NOTAMS.

5.1.3 When required, a recapitulation of current NOTAMS and other information of urgent character shall be made available for distribution to flight crews in the form of a bulletin. When the bulletin is in written form, its textual material shall be in plain language and not in code.

Note.—The bulletin may be presented either in written or graphic form.

5.2 *Post-Flight Information*

5.2.1 The aeronautical information services shall ensure that arrangements are made to receive, at aerodromes, information concerning the state and operation of air navigation facilities noted by aircrews, and shall ensure that such information is made available for such distribution as the circumstances necessitate.

Note.—Space may be provided on the bulletin (5.1.3) to facilitate reporting of this information in writing.

CHAPTER 6.—TELECOMMUNICATION REQUIREMENTS

6.1 The International NOTAM Office shall be connected to the aeronautical fixed telecommunication network (AFTN).

6.1.1 The connection shall provide for printed communications.

6.2 The International NOTAM Office shall be connected, through the aeronautical fixed telecommunication network (AFTN), to the following points within the region for which it provides service:

- (a) area control centers and flight information centers;
- (b) aerodromes at which an information service is established in accordance with Chapter 5.

6.2.1 The connections shall provide for printed communications, where communications traffic conditions so require.

CHAPTER 7.—EFFECTIVITY

This shall take effect upon approval.

URBANO B. CALDOZA
Administrator

Approved,, 1954.

OSCAR LEDESMA
*Secretary of Commerce
and Industry*

APPENDIX A

SPECIFICATIONS FOR AIP INDEX MAPS AND DIAGRAMS

1. *Base Map.*—The base map should be a simple outline of the area adapted from existing material with general details. The projection and political subdivisions should be shown. It should be produced in one color.

2. *Sheet Size and Scale.*—The overall dimensions should be 21 by 27 centimeters (8 by 10½ inches). If a larger map is required, it should be folded to conform to this size. A uniform scale should be used for all charts produced as a series and for other charts where practicable.

3. *Title and Marginal Notes.*—The title should be shown on the top border and should be as short and simple as possible.

4. *Colors.*—The number of colors used should be kept to a minimum. If more than one color is used, the colors should offer adequate contrast.

5. *Symbols.*—Symbols should conform, where practicable, to those shown in Appendix 1 to Annex 4, the ICAO Chart Symbols. The basic general purpose symbols for AIP index maps are a closed "o" and an open "o" circle. Except when the symbols used are self-explanatory, a legend should be provided.

Note.—Where it is desired to publish on index maps details for which no ICAO symbol has been provided, any appropriate symbol may be used, provided it does not conflict with any ICAO symbol.

6. *Drafting.*—Graticules, topography, and other details should be as simple as possible to permit rapid reproduction and amendment.

APPENDIX B

THE NOTAM CODE

1. *Introduction.*—The NOTAM Code is provided to enable the coding of information regarding the establishment, condition, or change of radio aids, aerodromes, and lighting facilities, dangers to aircraft in flight, or search and rescue facilities. Encoding facilitates the dissemination of NOTAMS by reducing the transmission time over telecommunication channels and eliminating translation.

2. *Procedures.*—The transmission of NOTAMS over the aeronautical telecommunications service is governed by the appropriate sections of the current Communication Procedures and Aeronautical Information Service Procedures. The former document contains information on the acceptability of and priority to be accorded to NOTAMS for transmission over the aeronautical telecommunication service, the latter full instructions on the textual format and contents of NOTAMS.

3. *Composition.*—All NOTAM Code groups contain a total of five letters. The first letter of the Code group is always the letter Q to indicate that it is a code abbreviation for use in the composition of NOTAMS. The letter Q has been chosen to avoid conflict with any assigned radio call sign.

4. *Significations.*—The significations assigned to NOTAM Code groups shall be amplified or completed where necessary by the addition of appropriate abbreviations, frequencies, call signs, place names, or figures approved for use in the aeronautical telecommunication service. These approved abbreviations shall be used in preference to plain language, wherever possible.

5. *Blank Spaces.*—The information necessary to complete a signification, as indicated by a blank space, shall be given except when:

(a) The blank spaces are enclosed within parenthesis to indicate that their completion is optional.

Example: QIEIK DVCE 15

Meaning.—The beacon at Cebu Aerodrome is available on 15 minutes' notice.

Note.—In the above example the meanings assigned to IE and IK have been amplified by the use of the optional sections of each meaning [IE (at ... location), IK (or at ... (time period) notice)] enclosed within parenthesis.

(b) An alternative meaning shown in parentheses is selected and the blank space in this alternative meaning is completed.

Example: QAUED 3 MC 5813 142359

Meaning.—The Meteorological communications operating frequency of 3 megacycles will be changed to 5813 kilocycles effective 2359 hours on the 14th day of the present month.

Note.—In the above example the alternative meaning of AU [... Mc/s)] has been used.

5.1 The information used to complete the blank spaces shall be sent immediately after the NOTAM group in the sequence shown in the signification.

6. *Parenthetical Expressions.*—Expressions or words in parentheses which do not include blank spaces, have the following significance:

- (a) When following a blank space
Example: ... (time or place)
... (date/time)

The explanation of information to be used in filing the preceding blank.

- (b) When following a word or expression
Example: "is (are)"

An alternative to the word or expression.

7. *Use.*—Five letter NOTAM Code groups are formed in the following manner:

FIRST LETTER

The letter Q [see paragraph 3].

SECOND AND THIRD LETTERS

The appropriate combination of two letters selected from the "Second and Third Letters" section of the Code to identify the facility, service, or danger to aircraft in flight being reported upon. It should be noted that the second letter has been restricted to A, E, I, O, or U.

FOURTH AND FIFTH LETTERS

The appropriate combination of two letters selected from the "Fourth and Fifth Letters" section of the Code to denote the status of operation of the facility, service, or danger to aircraft in flight reported upon. It should be noted that the fourth letter has been restricted to A, E, I, O, or U.

7.1 The first five letter NOTAM Code group in any NOTAM text shall in all cases be immediately preceded by the full name of the location of the particular facility, service, or danger to aircraft in flight being reported except that, in cases where an ICAO place name abbreviation has been assigned, this shall be used to identify the geographical location.

Example: 1 2 3 4 5 6

- (a) =DUMA QAROS 210800 211500=

Meaning.—The radio range at Manila will be out of service from 0800 hours GMT on the 21st day of the present month until 1500 hours GMT on the same day.

Explanation:

- (1) ICAO place name abbreviation identifying Manila, the location of the facility being reported.

(2) The letter "Q" identifying a five letter Code group as a NOTAM Code group.

(3) Second and third letters "AR" identifying "Radio Range".

(4) Fourth and fifth letters "OS" denoting "Out of service from ... (date/time) until ... (date/time)".

(5) Date/time group completing the first blank in signification of fourth and fifth letters "OS".

(6) Date/time group completing the second blank in signification of fourth and fifth letters "OS".

Note.—It should be noted that in the above examples that the signification assigned to fourth and fifth letters "OS" has been amplified by the use of that optional section of the signification enclosed within brackets.

(b) =DUMA QAROS 112.5 MC 210800=

Meaning.—The VHF omnidirectional radio range on frequency 112.5 Mc/s at Manila will be out of service from 0800 hours GMT on the 21st day of the present month for an unknown duration.

Note.—It should be noted that at Manila both MF and VOR types radio ranges are installed and both ranges have identical identifications, hence the requirement to specify the frequency of the particular installation being reported in order to avoid confusion.

(c) = DUMA QUIAZ 210000 210800 1545N 11935E 20,000 FT MER QUEAY 10 NM =

Meaning.—Manila advises that on the 21st day of the present month gun-firing to an altitude of 20,000 feet will take place from 0000 hours GMT until 0800 hours GMT at location (Latitude) 15° 45' North, (Longitude) 119° 35' East. Aircraft are to avoid the area, the radius of danger being 10 nautical miles.

7.2 In those significations where the expression "on ... Kc/s (or ... Mc/s)" appears, the figure groups used alone will indicate the frequency in kilocycles. To express a frequency in megacycles, the figures group is immediately followed by the abbreviation MC (meaning Megacycles).

8.—THE NOTAM CODE

SECOND AND THIRD LETTERS

RADIO AIDS

Signification

AA ... [specify TWR, APP, ATC or OAC] air traffic control receiver ... kc/s (or ... mc/s).
 AB Inner marker, Instrument Landing System.
 AC ... [specify TWR, APP, ATC or OAC] air traffic control transmitter kc/s (or ... mc/s).
 AD Middle marker, Instrument Landing System.

AE Outer marker, Instrument Landing System.
 AF Fan-type marker.
 AG Glide path, Instrument Landing System.
 AH Non-directional beacon (NDB).
 AI Instrument Landing System (ILS).
 AJ Radio range and associated voice communications [... kc/s * (or ... mc/s)].
 AK Radio receiving facilities.
 AL Localizer, Instrument Landing System.
 AM Compass locator, inner, Instrument Landing System.
 AN —
 AO Compass locator, outer, Instrument Landing System.
 AP —
 AQ —
 AR Radio range [... kc/s * (or mc/s)].
 AS Radio range leg.
 AT Attention signal.
 AU Meteorological communications ... kc/s (or ... mc/s).
 AV Voice communications ... kc/s (or ... mc/s).
 AW —
 AX Non-directional beacon and voice facility.
 AY 200 mc/s Distance Measuring Equipment (DME).
 AZ Station location marker VHF.
 EA —
 EB Broadcasting station (public).
 EC Consol station (... position).
 ED Decca.
 EE Ground Controlled Approach System (GCA).
 EE Aerodrome Control Radar System (ACR).
 EG Gee.
 EH —
 EI Automatic radio range track monitoring device.
 EJ All air-ground facilities (except ...).
 EK Precision Approach Radar (PAR).
 EL Loran.
 EM —
 EN 1000 mc/s Distance Measuring Equipment (DME).
 EO Beam Approach Beacon System (BABS).
 EP Radar responder beacon.
 EQ Surveillance Approach Radar.
 ER Radio transmitting facilities.
 ES All radio-navigation facilities (except ...).
 ET Teletypewriter transmitting facility(ies).
 EU Radio direction finding station ... (frequency or type).
 EV —
 EW SBA system.
 EX SBA system, localizer.
 EY SBA system, inner marker.
 EZ SBA system, outer marker.

* For use when reporting locations at which both MF and VCR installations are located—in these instances the appropriate frequency is given to avoid confusion.

LIGHTING FACILITIES

	Signification
IA	Boundary lights.
IB	—
IC	—
ID	Channel lights.
IE	Beacon (at ... location).
IF	Flood lights.
IG	Angle-approach lights.
IH	Taxiway lights.
II	—
IJ	Threshold lights (for runway number ...).
IK	Flares.
IL	All landing area lighting facilities.
IM	Aerodromes identification beacon.
IN	Approach lights with descent path indication.
IO	Obstruction lights.
IP	Approved light system [type ... [specify LSA (low intensity)] for runway number ...].
IQ	—
IR	Runway lights [type ... [specify LSA (low intensity) or LSB (high intensity)] for runway number ...].
IS	Strip lights [for strip ... (number or magnetic direction)].
IT	—
IU	—
IV	—
IW	—
IX	—
IY	—
IZ	Airway course lights.

AERODROMES: SEARCH AND RESCUE
DAGGERS TO AIRCRAFT IN FLIGHT

OA	Land aerodrome.
OB	Beaching facilities.
OC	Water aerodrome.
OD	Meteorological forecast service.
OE	Meteorological observation service.
OF	—
OG	—
OH	—
OI	—
OJ	—
OK	—
OL	—
OM	All runways [except number(s) ...].
ON	—
OO	Taxiway(s).
OP	Rescue vessel.
OQ	Ocean Station Vessel.
OR	Refueling [... type fuel(s) or ... octane].
OS	Search and rescue aircraft [specify VLR, LRG, MRG, SRG, or HEL].
OT	—
OU	—
OV	—

OW	—
OX	—
OY	—
OZ	Warship.
UA	Alighting area.
UB	Mooring buoys.
UC	—
UD	Danger (or Restricted) Area designated as ... (name or reference number).
UE	Aircraft.
UF	Fixed balloons.
UG	Bombing.
UH	Air exercises (or flying displays).
UI	Gun-firing.
UJ	Glider flying.
UK	Demolition of explosives.
UL	Landing direction indicator.
UM	Mooring and docking facilities.
UN	Parachute jumping exercises.
UO	—
UP	—
UQ	Apron.
UR	Runway(s) number(s).
US	Strip ... (number or magnetic direction).
UT	Grass landing area.
UU	—
UV	Fog dispersal equipment.
UW	—
UX	—
UY	—
UZ	Runway threshold (number ...).

FOURTH AND FIFTH LETTERS

HAZARD OR STATUS OF OPERATION

	Signification
AA	—
AB	Usable for length of ... and width of ...
AC	Covered by snow to a depth of ... <i>Note.</i> —This snow is not compacted.
AD	—
AE	—
AF	—
AG	—
AH	—
AI	Operating without tone modulation.
AJ	Operating without coding.
AK	Covered by compacted snow and ice to a depth of ...
AL	Operating on reduced power.
AM	Snow clearance in progress.
AN	Grass cutting in progress.
AO	Marked by ...
AP	Work is in progress.
AQ	Work completed.
AR	Snow clearance completed.
AS	Grass cutting completed.
AT	Sanding is in progress.
AU	Appears unreliable.
AV	—

AW	—	IQ	To be used as radio beacon only.
AX	—	IR	Magnetic track(s) towards station is(are) now ... [will be ... at ... (date/time)].
AY	Are to avoid area, radius of danger being (about the point)	IS	—
AZ	Will take place from (date/time) for an unknown duration [or until ... (date/time)] (on the days of ... between the hours of ... and ... at ... location (within the sector of ... and a radius of ... and a radius of ... at ... height above ... (datum)).	IT	Aircraft restricted to runways and taxiways.
EA	—	IU	Unserviceable for aircraft heavier than ... tons.
EB	Location change to ... effective ... (date/time).	IV	Unsafe from ... (date/time) for an unknown duration [or until ... (date/time)].
EC	Characteristics or identification or radio call sign changed to ...	IW	—
ED	Operating frequency(ies) will be changed to ... kc/s or (or ... mc/s) effective ... (date/time).	IX	—
EE	—	IY	—
EF	—	IZ	—
EG	—	OA	—
EH	Not heard.	OB	—
EI	—	OC	—
EJ	—	OD	—
EK	Completely withdrawn.	OE	—
EL	—	OF	—
EM	Military operations only.	OG	Operative but ground checked only, awaiting flight check.
EN	—	OH	—
EO	—	OI	—
EP	Available on prior permission (of ...) only.	OJ	—
EQ	—	OK	Resume normal operation.
ER	—	OL	Track(s) ground checked, approved for instrument flying.
ES	—	OM	Shut down for maintenance from (date/time) for an unknown duration [or until ... (date/time)]—disregard all signals.
ET	—	ON	—
EU	—	OO	—
EV	—	OP	—
EW	—	OQ	—
EX	—	OR	Previously promulgated shutdown has been cancelled.
EY	Is outside the limits of its assigned ocean station.	OS	Out of service from ... (date/time) for an unknown duration/or until ... (date/time)] (due to the following condition(s) ...).
EZ	Is within the limits of its assigned ocean station.	OT	New facility in operation.
IA	—	OU	Operating without interruption for voice transmissions from ... (date/time) for an unknown duration [or until ... (date/time)].
IB	—	OV	—
IC	Report of apparent unreliability or track displacement hereby is cancelled.	OW	—
ID	Available on request to ...	OX	Exercising at ... (date/time, location, and height above the specified datum).
IE	—	OY	—
IF	Flight checked and found reliable.	OZ	—
IG	—	UA	Closed to all operations from ... (date/time) for an unknown duration [or until ... (date/time)].
IH	—	UB	—
II	—	UC	—
IJ	—	UD	Closed to all night operations from ... (date/time) for an unknown duration [or until ... (date/time)].
IK	Available on request (to ...) immediately [or at ... (time period) notice].	UE	—
IL	Hours of service are now ...	UF	Closed for an unknown duration due to flood.
IM	—	UG	Closed for an unknown duration [or until ... (date/time)] due to ice or snow.
IN	Operative or reoperative from ...		
IO	Operating normally.		
IP	Track(s) reported to be displaced (... degrees) (... direction) of published bearing(s), other tracks probably have shifted.		

UH	Closed for an unknown duration[or until ... (date/time)] due to thaw.	UQ	Operative but caution advised due to repairs or construction.
UI	Closed from ... (date/time) for an unknown duration [or until ... (date/time)] for maintenance.	UR	Operative but caution advised due to obstruction.
UJ	—	US	Operative but caution advised due to rough water.
UK	—	UT	Operative but caution advised due to following condition/s ...
UL	—	UU	—
UM	—	UV	—
UN	Operative but caution advised due to flood.	UW	—
UO	Operative but caution advised due to ice or snow.	UX	—
UP	Operative but caution advised due to thaw.	UY	—
		UZ	—

Central Bank of the Philippines

ERRATA

On April 1954 issue of the *Official Gazette* the list of legal parities and/or exchange rates of foreign currencies in terms of the United States dollar and Philippine peso, the following had been erroneously printed.

1. On page 1527, the official peso equivalent of the "Baht" (currency of Thailand) appears as P.1593. The correct figure should read thus, P.1594.
2. On page 1528, the group of countries starting with Argentina and ending with Switzerland were classified as "Member countries without par values". It should read thus, "Non-member countries without par values."

APPOINTMENTS AND DESIGNATIONS

BY THE PRESIDENT OF THE PHILIPPINES

(Ad Interim Appointments)

May 1954

Mariano Ezpeleta as Minister of Career of the Republic of the Philippines, May 21.

Mariano Ezpeleta as Envoy Extraordinary and Minister Plenipotentiary of the Republic of the Philippines, May 21.

Raul T. Leuterio as Consul General of the Republic of the Philippines, May 21.

Romeo S. Busuego as Foreign Affairs Officer, Class II, May 21.

Juan C. Dionisio as Foreign Affairs Officer, Class II, May 21.

Anastacio B. Bartolome as Foreign Affairs Officer, Class III, May 21.

Pablo Peña as Foreign Affairs Officer, Class III, May 21.

Mrs. Belen S. Bautista as Foreign Affairs Officer, Class IV, May 21.

Vicente R. Pabello as Clerk of Court of Quezon, May 22.

Romeo Nebriaga as Justice of the Peace of Bayag, Mt. Province, May 22.

Silvino Miralles as Justice of the Peace of Silago, Leyte, May 24.

Cauti Lim as Justice of the Peace of Siasi and Tapul, Sulu, May 24.

Vicente Quibranza as Justice of the Peace of Camromatan, Lanao, May 24.

Joaquin Hermano as Justice of the Peace of Duenas and Passi, Iloilo, May 25.

Teofilo Barsana as Justice of the Peace of Itbayat, Batanes, May 25.

Jose Cabrera as Justice of the Peace of Toledo, Cebu, May 26.

Vicente Lontok as Member of the Board of Regents of the University of the Philippines, May 27.

Victor Buencamino as Member of the Board of Directors of National Rice and Corn Corporation, May 27.

Mamintal Tamano as Justice of the Peace of Marantao, Lanao, May 28.

Monico L. Imperial as Mayor of Naga City, May 29.

June 1954

Pedro Pacaña as Justice of the Peace of Baybay, Leyte, June 3.

Wenceslao Palo as Justice of the Peace of Maripipi, Leyte, June 3.

Feliciano Villablanca as Justice of the Peace of Tunga and Jaro, Leyte, June 3.

Pedro Holgado as Justice of the Peace of Agoncillo, Batangas, June 3.

Leon Ma. Guerrero as Ambassador Extraordinary and Plenipotentiary of the Republic of the Philippines to the United Kingdom of Great Britain and Northern Ireland, June 4.

Bornon Bauzon as Auxiliary Justice of the Peace of Sta. Barbara, Pangasinan, June 4.

Rodolfo Aranas as City Engineer of Butuan City, June 7.

Manuel Alzate as Minister of Career of the Republic of the Philippines, June 8.

Alejandro Galang as Foreign Affairs Officer, Class II, June 8.

Francisco Sia as Justice of the Peace of Canlaon, Negros Oriental, June 8.

Rodolfo Ortiz as Justice of the Peace of Banga, Cotabato, June 8.

Severino Fontanilla as Justice of the Peace of Batac, Ilocos Norte, June 9.

Elias Pilar as Justice of the Peace of Bacarra, Ilocos Norte, June 9.

Miss Zoila M. Redona as Justice of the Peace of Palo, Leyte, June 10.

Mrs. Estela R. Sulit as Foreign Affairs Officer, Class III, June 12.

Mrs. Belen S. Bautista as Vice Consul of the Republic of the Philippines, June 14.

Jose Fornier as Foreign Affairs Officer, Class IV, June 14.

Manuel R. Cumagun as Consul of the Republic of the Philippines, June 15.

Jose Fornier as Vice Consul of the Republic of the Philippines, June 15.

Leonardo Paner as Justice of the Peace of Cabuyao, Laguna, June 15.

Filemon Aguilar as Justice of the Peace of Alubijid, Misamis Oriental, June 17.

Jose Valmayor, Jr., as Justice of the Peace of Calatraon, Negros Occidental, June 17.

Antonio H. Noblejas as Commissioner of the Land Registration Commission, June 22.

Narciso Peña as Assistant Commissioner of the Land Registration Commission, June 22.

June 21, 1954

Querube C. Makalintal, Conrado V. Sanchez, Fernando Hernandez, and Florentino Saguin as Associate Justices of the Court of Appeals.

Ambrosio Padilla as Solicitor General.
Julio Villamor as Judge, 2nd Judicial District, Ilocos Norte, 1st Branch.

Fidel Villanueva as Judge, 2nd Judicial District, Ilocos Norte, 2nd Branch.

Eulogio Mencias as Judge, 2nd Judicial District, Ilocos Sur, 2nd Branch.

Jose Mendoza as Judge, 2nd Judicial District, Abra.

Juan O. Reyes as Judge, 2nd Judicial District, La Union.

Jose N. Leuterio as Judge, 4th Judicial District, Nueva Ecija and Cabanatuan City, 1st Branch.

Agustin P. Montesa as Judge, 4th Judicial District, Nueva Ecija and Cabanatuan City, 2nd Branch.

Ladislao Pasicolan as Judge, 4th Judicial District, Nueva Ecija and Cabanatuan City, 3rd Branch.

Jose C. Zulueta as Judge, 5th Judicial District, Pampanga, 2nd Branch.

Gregorio Narvasa as Judge, 6th Judicial District, Manila, 5th Branch.

Edilberto Barot as Judge, 6th Judicial District, Manila, 7th Branch.

Vicente Santiago as Judge, 6th Judicial District, Manila, 8th Branch.

Bonifacio Ysip as Judge, 6th Judicial District, Manila, 12th Branch.

Magno S. Gatmaitan as Judge, 6th Judicial District, Manila, 14th Branch.

Edilberto Soriano as Judge, 6th Judicial District, Manila, 15th Branch.

Carmelino Alvendia as Judge, 6th Judicial District, Manila, 16th Branch.

Arsenio Solidum as Judge, 6th Judicial District, Manila, 17th Branch.

Juan L. Bocar as Judge, 7th Judicial District, Palawan.

Teodoro Camacho as Judge, 8th Judicial District, Laguna and San Pablo City, 2nd Branch.

Vicente Arguelles as Judge, 9th Judicial District, Quezon, 1st Branch.

Jose Flores as Judge, 10th Judicial District, Albay and Catanduanes, 1st Branch.

Salvador Esguerra as Judge, 11th Judicial District, Iloilo and Iloilo City, 1st Branch.

Lorenzo Garlitos as Judge, 13th Judicial District, Leyte and the cities of Ormoc and Tacloban, 2nd Branch.

Cirilo Maceren as Judge, 13th Judicial District, Leyte and the cities of Ormoc and Tacloban, 3rd Branch.

Filomeno Ybanez as Judge, 13th Judicial District, Leyte and the cities of Ormoc and Tacloban, 4th Branch.

Ignacio Debuque as Judge, 13th Judicial District, Leyte and the cities of Ormoc and Tacloban, 5th Branch.

Manuel M. Mejia as Judge, 14th Judicial District, Cebu and Cebu City, 5th Branch.

Segundo Apostol as Judge, 15th Judicial District, Lanao and the cities of Dansalan and Iligan.

Makapanton Abbas as Judge, 16th Judicial District, Sulu and Basilan City.

Mariano Nable as Presiding Judge and Augusto M. Luciano as Associate Judge of the Court of Tax Appeals.

Mrs. Minerva R. Inocencio-Piguing as Judge of the Municipal Court, Quezon City, 2nd Branch.

June 24, 1954

Francisco Geronimo as Judge, 2nd Judicial District, Ilocos Sur, 1st Branch.

Jesus de Veyra as Judge, 2nd Judicial District, Baguio City and Mt. Province.

Wenceslao Ortega as Judge, 3rd Judicial District, Zambales.

Jesus P. Morfe as Judge, 3rd Judicial District, Pangasinan and Dagupan City, 2nd Branch.

Emmanuel Muñoz as Judge, 3rd Judicial District, Pangasinan and Dagupan City, 4th Branch.

Ambrosio Dollete as Judge, 5th Judicial District, Bataan.

Arsenio Santos as Judge, 5th Judicial District, Pampanga, 1st Branch.

Antonio Lucero as Judge, 6th Judicial District, Manila, 11th Branch.

Ruperto Kapunan, Jr., as Judge, 6th Judicial District, Manila, 18th Branch.

Arturo A. Alafriz as Judge, 7th Judicial District, Cavite and the Cities of Cavite and Tagaytay, 2nd Branch.

Antonio Cañizares as Judge, 7th Judicial District, Rizal and the Cities of Quezon and Pasay, 1st Branch.

Juan P. Enriquez as Judge, 7th Judicial District, Rizal and the Cities of Quezon and Pasay, 2nd Branch.

Nicasio Yatco as Judge, 7th Judicial District, Rizal and the Cities of Quezon and Pasay, 5th Branch.

Federico Alikpala as Judge, 8th Judicial District, Laguna and San Pablo City, 1st Branch.

Francisco Carreon as Judge, 8th Judicial District, Laguna and San Pablo City, 3rd Branch.

Manuel P. Barcelona as Judge, 8th Judicial District, Batangas and Lipa City, 1st Branch.

Luis B. Reyes as Judge, 8th Judicial District, Batangas and Lipa City, 2nd Branch.

Conrado M. Vasquez as Judge, 8th Judicial District, Batangas and Lipa City, 3rd Branch.

Vicente del Rosario as Judge, 9th Judicial District, Quezon, 3rd Branch.

Melquiades Ilao as Judge, 9th Judicial District, Camarines Norte.

Jose L. Moya as Judge, 10th Judicial District, Camarines Sur and Naga City, 3rd Branch.

Mateo Alcasid as Judge, 10th Judicial District, Albay and Catanduanes, 2nd Branch.

Genaro Tan Torres as Judge, 10th Judicial District, Sorsogon.

Hilarion U. Jarencio as Judge, 11th Judicial District, Iloilo and Iloilo City, 2nd Branch.

Roberto Zurbano as Judge, 11th Judicial District, Antique.

Jose Evangelista as Judge, 11th Judicial District, Capiz, Romblon and Roxas City, 1st Branch.

Mrs. Cecilia Munoz-Palma as Judge, 12th Judicial District, Negros Oriental and Dumaguete City, 1st Branch.

Inocencio V. Rosal as Judge, 12th Judicial District, Negros Oriental and Dumaguete City, and

the Subprovince of Siquijor, 2nd Branch.

Felix V. Makasiar as Judge, 12th Judicial District, Negros Occidental and Bacolod City, 4th Branch.

Olegario Lastrilla as Judge, 13th Judicial District, Samar and Calbayog City, 3rd Branch.

Damaso S. Tengco as Judge, 13th Judicial District, Leyte and the Cities of Ormoc and Tacloban, 6th Branch.

Patricio Ceniza as Judge, 14th Judicial District, Cebu and Cebu City, 3rd Branch.

Jose Fernandez as Judge, 15th Judicial District, Bukidnon.

Mrs. Corazon Juliano-Agrava as Judge, 16th Judicial District, Davao and Davao City, 3rd Branch.

Antonio Lacson as Judge, 16th Judicial District, Cotabato, 2nd Branch.

Lucas Lacson as Judge, 16th Judicial District, Misamis Occidental and Ozamis City.

Pantaleon Pelayo as Judge, 16th Judicial District, Zamboanga del Norte.

HISTORICAL PAPERS AND DOCUMENTS

PRESIDENT MAGSAYSAY'S SPEECH LAUNCHING THE ONE-YEAR THRIFT CAMPAIGN

June 1, 1954

IT GIVES me great pleasure to open this nation-wide campaign for thrift which commences today and ends on May 31, 1955. Before anything else, I wish to congratulate the Bankers Association of the Philippines for sponsoring this campaign. I know it is in the best of hands.

The cornerstone of the program of this Administration—the improvement of the condition of the masses—is already well known to all. I fear, however, that when this objective was publicly announced, the overwhelming majority of the people felt that our salvation would just drop like manna from Heaven, and that the search for remedies for our social and economic ills had ended when the announcement was made.

This is not so. There are many things we must have and must do to attain our objective. Of the things we must have, perhaps the most important is capital. “Thrift Year” has been proclaimed to remind ourselves that one of the greatest obstacles to capital formation in this country is the lack of thrift among our people.

For a poor and under-developed country like ours, whose present wealth consists mainly of its potentials, we have been spending too much and saving too little. Austerity is one thing that we, as a people, have not put into practice sufficiently. We can even say that thrift has for sometime past become a neglected virtue. In recent years, private and government savings constituted only about three per cent of our national income, compared to 10 to 15 per cent in more advanced countries.

Let us not seek elsewhere for a remedy to this situation. The remedy lies in us, in our determination to save enough, not necessarily for our exclusive use but also for the use of those of our countrymen who need capital for investment in productive and gainful pursuits.

Savings locked in drawers and safes will aid only their owners, but savings deposited in banks and banking institutions or invested in government and industrial bonds become economically useful to the entire community. It is savings of this type that have come to the rescue of such highly developed countries, like the United States

of America, Great Britain, France, and Germany, in times of economic and financial difficulties, during World War I and World War II, and even during periods of peace.

My friends, I appeal to each and every one of you to support this thrift movement not by merely accepting the idea but by practising it. The small but constant trickles of savings finding their way into banks and other financial institutions will, in time, become a mighty torrent of capital funds that will serve the country in normal times as well as in periods of economic distress.

Our program of economic development is essentially a program of self-help, and it is only through increased savings on our part that we can make possible a substantial increase in our domestic capital investment. Our economic and industrial development will be greatly accelerated by the regular and systematic accumulation of savings, and by utilizing such savings in the financing of productive enterprises and activities. A marked increase in the savings of our people will enable us to respond effectively to the frequent call of the Government for funds when government securities are offered for sale.

In the present state of our economy, the practice of thrift should not be a mere habit but a patriotic duty. Knowing our people, I am confident that they will not fail in this new challenge.

**PRESIDENT RAMON MAGSAYSAY'S STATEMENT AFTER SIGNING
SENATE BILL NO. 45, KNOWN AS THE PERFORMANCE BUDGET
BILL**

I AM particularly happy to sign this bill into law. It represents a truly significant milestone in the development of a democratic society, and will make it easier for the Government to serve the public needs.

The budget is the keystone of modern, democratic government. It is the one place where the citizen can look to find out how much his government is spending and for what purposes. Unfortunately, in the past, our budgets have been so detailed and so large and cumbersome that only the experts could fully appreciate them. Too much emphasis was focused on the number and salaries of personnel to be employed, the cost of supplies, materials, furniture, and equipment to be acquired, rather than on the objectives or purposes to be accomplished.

Under this new law, future budgets will be presented in terms of the activities and services they are proposed to buy. Eventually, when this law becomes fully operative, these services will be measured in unit costs so that the public

can quickly see how much a particular service is costing the country. With this system, the public will be in a better position to determine just how much governmental services it wishes to buy.

After it gets accustomed to the new method of presentation, the Congress will favor performance budgeting. With it, Congress will be able to exercise a greater measure of control and guidance over public expenditures. As the representative of the people, the Congress will have in its hands a device that will enable it to provide funds for the services the public needs.

This new system of budgeting will also be a great assistance to the operating departments and agencies. Under it, the program objectives of the several agencies will receive greater consideration. Effective and economical operations will not be short-changed. Operating heads will have a greater degree of flexibility, as well as responsibility.

I am very grateful to the many fine people and organizations who assisted in the preparation of the bill. I want to congratulate Senator Puyat for sponsoring the bill and guiding it through the Senate. Likewise, may I commend the able and distinguished Congressman Fornier and Congressman Mitra for their work in getting the bill through the House.

I have directed Commissioner Aytona to move as rapidly as possible on the implementation of the performance budget. The one which I shall present to the Congress next year will be partially on the new basis. That for 1956-57, the following year, will be completely on that basis.

SA PAGTANGGAP NG PANGULO SA KREDENSIYAL NG
EMBAHADOR NG ESPANYA

Hunyo 15, 1954

BUONG puso namin kayong tinatanggap sa aming bayan. Makikita ninyo sa Pilipinas ang dating adhikain at damdamin ng aming bayang sinakop ng Espanya sa loob ng mahigit na 300 taon. Ang damdamin at adhikain ding yaon ang ginagamit naming kalasag sa pagbaka sa komunismo, gaya ng ginawa ninyong pagbaka sa suliranin ding yaon sa pangunguna ng magiting ninyong heneral na si Francisco Franco.

Nababatid kong titigil kayo rito na gaya ng gagawin ninyong pagtigil sa inyong sariling bansa, sapagka't ang ugali namin ay kahawig ng ugali ninyo dahil sa pangyayaring nilukuban kami ng Espanya sa loob ng mahigit na

300 taon. Sa gayon ay hindi lubhang nagkakaiba ang ating mga lunggatiin at damdamin.

Sa madidilim na araw ng aming kasaysayan bilang isang lahi, ang Espanya ay nag-iwan sa aming puso at damdamin ng isang hindi madalumat na lakas na siya naming ipinangbabaka sa komunismo ngayon.

Malugod kong pinag-uukulan ng matayog na papuri ang Espanya dahil sa tandisang pagbaka sa komunismo, na siya rin naming ginagawa rito.

Inuulit kong malugod namin kayong tinatanggap sa aming bansa at binabati ko si Hen. Franco.

DECISIONS OF THE SUPREME COURT

[Nos. L-6085 and 6086. June 11, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee,
vs. ANTONIO SAMANIEGO Y YOUNG *alias* SY LIONG BOK
alias TONY, defendant and appellant.

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee,
vs. ONG ING *alias* CRESENCIO ONG, and ALFREDO TORRES Y SAGAYSAY, defendants, ALFREDO TORRES Y SAGAYSAY, defendant and appellant.

1. EVIDENCE; "RES INTER ALIOS ACTA".—The testimonies of peace officers for the prosecution in other criminal cases which were dismissed upon the ground that the confessions obtained by them, in connection with those cases, were tainted with irregularities are *res inter alios acta* and are not admissible in evidence.
2. ID.; ID.; ALIBI.—The uncorroborated testimony of one of the appellants that he was sick at home, when the offense charged was committed, cannot offset the positive testimony of witnesses who saw him near the scene of the occurrence, at about the time of the perpetration of the crime.
3. ID.; CRIMINAL PROCEDURE; NEW TRIAL; NEWLY DISCOVERED EVIDENCE.—Where the alleged newly discovered evidence merely tends to corroborate appellants' alibi to the effect that they were not present at the scene of the crime and could not have participated in its commission, the motion for new trial should be denied.
4. ID.; ID.; ID.; EVIDENCE INSUFFICIENT TO OFFSET THAT FOR THE PROSECUTION WHICH HAS BEEN POSITIVELY ESTABLISHED.—The testimony of the new witnesses for the appellants to the effect that they were the authors of the crime charged and that no other persons could have committed it can not offset the positive testimonies of two unbiased witnesses for the prosecution that they have seen the appellants at the place of the occurrence at about the time of the perpetration of the offense charged, testimonies which were partly corroborated by one of the appellants himself.

APPEAL from a judgment of the Court of First Instance of Manila. Sanchez, J.

The facts are stated in the opinion of the court.

Sixto S. J. Carlos, Guillermo S. Santos, Eleuterio S. Abad, and Constantino B. Acosta for the defendants and appellants.

Gaudencio C. Cabacungan for defendant Antonio Samaniego.

Solicitor General Juan R. Liwag and Assistant Solicitor General Francisco Carreon for the plaintiff and appellee.

CONCEPCION, J.:

On April 28, 1950, at about 11:00 p. m., the dead body of Ong Tin Hui was found gagged and blindfolded in the Oxford Shoe Emporium, at No. 325 Carriedo Street, Manila, where he was working, with his wrists tied and a cord around his neck. The medical examiner found, on said body, the following:

Laceration, auricular and occipital arteries and veins.
Lacerations, superficial, cerebral veins, basal portion, brain.
Marked congestion and edema, lungs, bilateral.
Old pleural adhesions, lungs, right.
Congestion, spleen.
Congestion, pancreas.
Congestion, kidneys, bilateral.
Hemorrhages, diffuse, subdural and subarachnoid, specially base, brain.
Fracture, cribiform plate, ethmoid bone of cranium.
Wounds, lacerated, multiple (2) forehead.
Wounds, lacerated, temporal region, left.
Wound, lacerated, splitting, external ear, pinna, left.
Wounds (2) lacerated, with extensive contusion, scalp, posterior occipital region, head, left.
Wounds, lacerated, multiple (2) extensive, scalp, with contusion hematoma, occipital-parietal region, posterior head, right.
Tight-gag, mouth, and tight blind fold (piece of cloth), face.
Strangulation by cord, neck.
Tight cord around both forearms and wrist joints.
Cause of Death: Asphyxia and diffuse subarachnoid hemorrhage specially over the base of the brain due to suffocation by tight gagging of the mouth and whole face with cloth, and multiple laceration injuries by blows on the head and face." (Appellants' brief, p. 31).

The peace officers who investigated the matter were tipped that Ong Tin Hui had an enemy by the name of Go Tay, whose brother-in-law, Ong Ing, had the reputation of being a tough guy and was unemployed. Upon questioning, Ong Ing, who, sometime later on, was loitering around Carriedo Street, stated that, at about the time of the occurrence, he had seen Alfredo Torres, one Antonio Tan a Filipino whose name he did not know, coming from the Oxford Shoe store. Hence, Alfredo Torres, whose whereabouts were located with the assistance of Ong Ing, was arrested. Upon investigation, Torres, in turn declared that Ong Ing had participated in the commission of the crime. When Ong Ing and Alfredo Torres were made to face one another, they mutually recriminated and incriminated each other. Moreover, Torres, Ong Ing *alias* Cresencio Ong and Go Tay made their respective statements in writing, Exhibits X, W and Y, implicating one Tony. Upon examination of the pictures of police characters in the files of the Police Department. Ong Ing and Torres identified the picture of one bearing the name of Antonio Tan, as that of Tony. Antonio Tan turned

out to be known, also, as Antonio Samaniego, *alias* Sy Liong Bok, who, on June 15, 1950, was arrested in Magarao, Naga, Camarines Sur, where he went late in May, 1950. Upon being questioned by the police, Samaniego declared substantially, that he was merely posted, as guard, at the door of the Oxford Shoe Emporium, during the commission of the crime charged, and that, thereafter, he received from Alfredo Torres a certain sum of money as his share of the loot. Samaniego, likewise signed the statement Exhibit CC.

As a consequence, three criminal cases for robbery and homicide were instituted in the Court of First Instance of Manila, namely: Case No. 12734, against Ong Ing and Alfredo Torres y Sagaysay; Case No. 12941, against Antonio Samaniego; and Case No. 13031, against Ang Tu *alias* Go Tay. After entering a plea of "not guilty," which was subsequently withdrawn, Ong Ing was allowed to plead, in lieu thereof, and, after being carefully informed by the court of the serious nature of the charge and of the possible consequences of his contemplated step, did plead, "guilty," with the understanding that he would introduce evidence on the presence of some mitigating circumstances. Upon the presentation of said evidence, Ong Ing was sentenced to life imprisonment, with the accessory penalties prescribed by law, to indemnify the heirs of the deceased Ong Tin Hui in the sum of P5,000, without subsidiary imprisonment in case of insolvency, and to pay one-half of the costs—which sentence is now being served by him. In due course, the Court of First Instance subsequently rendered a decision convicting Alfredo Torres and Antonio Samaniego, as principal and as accomplice, respectively, of the crime charged, and sentencing the former to life imprisonment, and the latter to an indeterminate penalty ranging from 8 years and 1 day of *prisión mayor* to 14 years, 8 months and 1 day of *reclusión temporal*, with the accessory penalties provided by law and to jointly and severally indemnify the heirs of the deceased Ong Tin Hui in the sum of P5,000 and the Oxford Shoe Emporium in the sum of P104, and, Alfredo Torres to pay one-half of the costs in case No. 12734, and Antonio Samaniego the costs in case No. 12941, and acquitting Ang Tu *alias* Go Tay upon the ground of insufficiency of evidence, with costs *de oficio* in case No. 13031. Torres and Samaniego have appealed from said decision.

It is not disputed that the Oxford Shoe Emporium was burglarized and Ong Tin Hui killed therein by the thieves in the evening of April 28, 1950. The only question for determination in this case are: (1) whether appellants formed part of group that perpetrated the offense, and

(2) in the affirmative case, the nature of their participation therein. The evidence thereon consists of the following:

(a) Ong Ing, *alias* Cresencio Ong, testified that, pursuant to instructions of Ang Tu, *alias* Go Tay, who begged him to look for thugs to kill Ong Tin Hui, he (Ong Ing) sought appellants herein; that Ong Ing gave Samaniego the sum of ₱200, which had come from Ang Tu; that, upon hearing of the latter's plan, Samaniego remarked that Ong Tin Hui should really be killed, he being his (Samaniego's) creditor; that both appellants agreed to go to the Oxford Shoe Emporium in the evening of April 28, 1950; that on the way thereto, said evening, Samaniego suggested the advisability of finding a good excuse to knock at the door, in order that his companions could enter the store; that upon arrival thereof, Samaniego knocked at the door, which was opened by Ong Tin Hui; that, thereupon, Torres, another Filipino and one Chinese, whose name was not given, entered the store; that the unnamed Filipino expressed the wish to go to the toilet, for which reason Ong Tin Hui led him to said place; that thereupon, the former struck the latter, from behind, with a piece of wood that Torres tied the hands of Ong Tin Hui, whom Torres and the other Filipino dragged to the kitchen; that when Torres and his companions left the store, they stated that Ong Tin Hui was dead already; and that, soon later, they went to the house of Torres at Grace Park, where the loot of ₱104 was divided.

(b) Nazario Aquino and Apolinario Ablaza, watchman and inspector, respectively, of the PAMA Special Watchmen Agency, declared that, on April 28, 1950, between 10:00 and 11:00 p. m., Aquino saw Torres at Bazar 51 in Carriedo Street, whereas Ablaza met said appellant near the Alcazar Building, in the same street; that Aquino chatted with Torres, who said that soon he could buy whatever he needed, for he would get his backpay; that Torres was perspiring and his hair was ruffled when Ablaza saw him; that, that evening, Aquino, likewise, saw appellant Samaniego, with four companions, at the corner of Carriedo and P. Gomez streets, and this was admitted by Samaniego; and that Samaniego greeted him on that occasion.

(c) In his extrajudicial statement (Exhibit C), Torres declared that, pursuant to a previous understanding, he, Samaniego, Ong Ing, and others gathered at the Cliners Restaurant, where it was agreed that Torres would dissuade the special watchman from patrolling the vicinity of the Oxford Shoe Emporium; that Samaniego knocked at its door at about 10:45 p.m.; that while Samaniego and Torres stood on guard outside, Ong Ing, the unnamed Filipino, and another Chinaman, entered the store; that

after leaving the store, the group proceeded to the house of Torres, where the stolen money was divided; and that the blood stains found in his trousers and coat (Exhibits M and N), must have been caused by the unnamed Filipino, who had blood in his hands.

(d) Detective Lieutenant Enrique Morales and Detective Corporal Jose Sto. Tomas, testified that upon investigation, Samaniego stated that he was merely posted at the door of the Oxford Shoe Emporium during the occurrence.

(e) In his extrajudicial confession (Exhibit CC), Samaniego declared that he had known Ong Tin Hui since August 1949, because the Oxford Shoe Emporium was behind the store where said appellant used to work; that he was not inside the Oxford Shoe Emporium, but merely stood on guard at its door when the crime was committed; that Ong Ing gave him P200, which came from Ang Tu, in order to induce him to kill Ong Tin Hui; and that, after the occurrence, he received P23 or P24 as his share of the loot.

(f) In his extrajudicial statement (Exhibits W and AA), Ong Ing said that, in addition to agreeing to participate in the commission of the crime, Samaniego had suggested that it be perpetrated on a Friday; that it was Samaniego who knocked at the door of the Oxford Shoe Emporium in order that his companions could enter the store; and that Torres was one of those who participated in the commission of the crime charged.

(g) In Exhibits X and BB, the extrajudicial confessions of Torres, he stated that besides knocking at the door of the Oxford Shoe Emporium, Samaniego received P26 as his share of the stolen money. Torres likewise identified Samaniego's picture, Exhibit J.

(h) The sales book Exhibit S, and the cash slip booklet and cash slips of the Oxford Shoe Emporium (Exhibits S, T, T-1 to T-16, U and U-1 to U-13), show that the sales made in said store on April 28, amounted, at least, to P104, thus corroborating the foregoing evidence on the amount of money taken from said store and divided among those who perpetrated the offense charged.

Appellants claim that the aforementioned statements were secured from them by members of the police department through duress. In the language, however, of His Honor, the Trial Judge, this pretense cannot be sustained, for:

"First, the written statements of Torres and Samaniego, taken by question and answer, are too rich in details which only they themselves could furnish. It will be readily seen that in their respective statements each of these two defendants attempted as best he could to minimize the gravity of his participation in the crime. This is specially true in the case of Samaniego—the more

intelligent of the two—who had finished the second year course in Commerce. If really the Police officers tortured the two defendants and manufactured their statements, the court has no doubt that the responsibility of the latter would have been placed in black and white in their respective statements.

"Second, another proof of weight against the claim of torture is the case of defendant Go Tay *alias* Ang Tu *alias* Kiko. The known theory of the police is that Go Tay was the instigator of the crime. In the eyes of the police, he was the whole; Torres and Samaniego, compared to Go Tay, were but mere winnows. A written statement of Go Tay Exhibit Y was taken. The statement Exhibit Y reflects all that Go Tay really stated to the investigator. Go Tay said so in court. No inculpatory answer appears therein. This shows that the police officers did not inject into that statement facts which would bring about the conviction of this principal defendant. Yet, when Go Tay afterwards changed his mind and refused to sign the statement, no force was exerted against him—it remained unsigned.

"Third, in the case of Torres, he himself stated in court that he did not sign a document presented to him whenever he did not want to. (Tr. pp. 1077-1079).

"Fourth, in the case of Samaniego, the court observed that he speaks Tagalog rather fluently. (Tr. p. 1309). He reads and writes English. He cannot say that he did not know the contents of his own statement, because if he reads English and he speaks Tagalog, undoubtedly he could read Tagalog words." (Decision, pp. 50-51, appellants' brief). (Brief of the Solicitor General, pp. 10-11).

Appellants insist that the testimonies of Lieutenant Morales and Detective Sto. Tomas, Walker, Alday and Gorospe, to the effect that said statements were made freely and voluntarily, do not deserve credence, said peace officers having testified for the prosecution in other criminal cases which were eventually dismissed upon the ground that the confessions obtained by them, in connection with those cases, were tainted with irregularities. But, the evidence sought to be introduced by the defense, in support of its aforementioned pretense, was not admitted by the lower court, and the ruling thereof is not assailed in appellants' brief. At any rate, what those witnesses did or said in relation to other cases is *res inter alios acta* and, as such, irrelevant to the case at bar.

Appellants have set up their respective *alibis*. Torres said that he was sick at home, when the offense charged was committed. Obviously, his uncorroborated testimony cannot offset the incriminating evidence already adverted to, particularly considering the positive testimony of Aquino and Ablaza, who saw him at Carriedo Street, near the scene of the occurrence, at about the time of the perpetration of the crime. As regards Samaniego's *alibi*, we fully agree with the view of the lower court thereon, which we quote from the decision appealed from:

"Weaker still is the *alibi* of defendant Samaniego. Samaniego testified in court that he went to Quiapo Church at around 8:30 in the evening of April 28, 1950; that after a few minutes there he went out and passed by Calle Carriedo; that he then proceeded

to Avenida Rizal where he purchased a newspaper and thereafter went to Cine Capitol; and that he left the show shortly before 11 o'clock in the evening. This admission of Samaniego by itself alone is sufficient to overcome his defense of *alibi*. The reason is that he could have been in the scene of the crime at the time of the commission thereof." (Appellants' brief, p. 50).

It is clear from the foregoing that the lower court has not erred in rejecting said alibis and in convicting appellants herein as above stated.

In a motion filed before this Court, during the pendency of the present appeal, appellants pray for a new trial upon the ground of newly discovered evidence consisting of the testimony of Narciso De la Cruz and Enrique Mojica, whose joint affidavit is attached to said motion as Annex C. Affiants declare therein that they are serving sentences, De la Cruz, of imprisonment for 20 years, for the crime of robbery with homicide, and Mojica of imprisonment for 17 years, for robbery; that they are the assassins of Ong Tin Hui; that no other persons have committed said crime; and that they perpetrated the same at the instigation of Ang Tu *alias* Go Tay.

Upon careful consideration of said motion for new trial, we are clearly of the opinion, and so held, that the same should be, as it is hereby, denied, for:

(1) The allegedly newly discovered is merely corroborative of appellants' *alibis*. It merely tries to strengthen appellants' evidence to the effect that they were not present at the scene of the crime and could not have participated, therefore, in its commission.

(2) Even if introduced in evidence, the testimony of Narciso De la Cruz and Enrique Mojica would not, in all probability, affect the result of the case. Considering the source of said testimony; the fact that the presence of appellants at the place of the occurrence, at about the time of the perpetration of the offense charged, has been positively established by the testimony of two unbiased witnesses, Nazario Aquino and Apolinario Ablaza, who were partly corroborated by the testimony of appellant Samaniego; and the circumstance that, credence cannot be given to the testimony of said affiants without assuming that Ong Ing had pleaded guilty of, and is willingly serving sentence for, a crime he had not committed, the allegedly newly discovered evidence is, to our mind, insufficient to offset the evidence for the prosecution, or even to create a reasonable doubt on appellants' guilt. Moreover, as we said in case G. R. No. L-5849, entitled *People vs. Buluran*", decided May 24, 1954:

"* * * for some time now this Court has been receiving, in connections with criminal cases pending before it, a number of motions for new trial, similar to the one under consideration, based upon affidavits of prisoners—either serving sentences (like

Torio and Lao) or merely underpreventing detention, pending final disposition of the charges against them—who, in a sudden display of concern for the dictates of their conscience—to which they consistently turned deaf ears in the past—assume responsibility for crimes of which others have been found guilty by competent courts. Although one might, at first, be impressed by said affidavits—particularly if resort thereto had not become so frequent as to be no longer an uncommon occurrence—it is not difficult, on second thought, to realize how desperate men—such as those already adverted to—could be induced, or could even offer, to make such affidavits, for a monetary consideration, which would be of some help to the usually needy family of the affiants. At any rate, the risks they assume thereby are, in many cases, purely theoretical, not only because of the possibility, if not probability, of establishing (in connection with the crime for which responsibility it assumed) a legitimate *alibi*—in some cases it may be proven positively that the affiants could not have committed said offenses, because they were actually confined in prison at the time of the occurrence—but, also, because the evidence already introduced by the prosecution may be too strong to be offset by a reproduction on the witness stand of the contents of said affidavits.”

Wherefore, the decision appealed from is hereby affirmed, the same being in accordance with the facts and the law, with costs against the appellants.

Parás, C. J., Pablo, Bengzon, Padilla, Reyes, Jugo, Bautista Angelo, and Labrador, JJ., concur.

Judgment affirmed.

[No. L-6736. May 4, 1954]

ISABEL GABRIEL ETC., ET AL., petitioners, *vs.* HON. DEMETRIO B. ENCARNACION ET AL., ETC., respondents

SALE OF PROPERTY OF DECEDENT, SUBJECT TO REGULATIONS; EFFECT OF NON-COMPLIANCE THEREOF.—When the court decides to authorize the sale of the property of the decedent because it appears beneficial to the heirs, the same shall be made subject to the regulations provided by the Rules of Court. Failure to comply with these regulations will have the effect of rendering the order authorizing the sale void as well as the sale made in pursuance thereof.

ORIGINAL ACTION in the Supreme Court. Certiorari.

The facts are stated in the opinion of the court.

Cipriano P. Paraiso for the petitioners.

Padilla, Carlos and Fernando for respondents. *Petrita Pascual* and her co-heirs.

BAUTISTA ANGELO, J.:

This is a petition for certiorari seeking to set aside an order issued by respondent Judge Francisco Arca on April 29, 1953, granting the motion of co-administratrix *Petrita Pascual* and her co-heirs for the sale of all the real properties of the intestate estate of *Eligio Naval* as well

as the order issued by respondent Judge Demetrio B. Encarnacion on May 27, 1953, sustaining the above order and denying the motion for reconsideration of petitioners.

The petitioners herein are Isabel Gabriel, widow of the deceased Eligio Naval, and Rudyardo Santiago, a co-administrator of the estate in Special Proceedings No. R-6677 of the Court of First Instance of Rizal, Pasig branch. Petrita Pascual, one of the respondents, is a co-administratrix of the estate in the same proceedings.

On November 28, 1952, Petrita Pascual, as co-administratrix, and her co-heirs filed a motion with the court praying that all the real properties of the intestate be sold for cash at public bidding on the date and hour to be fixed by the court and their proceeds be deposited in a banking institution to be designated by the court. Copy of this motion was served on counsel for the widow, Isabel Gabriel, and the co-administrator of the estate, Rudyardo Santiago, and the motion was set for hearing on December 5, 1952, but the motion was not heard on the date set in view of the absence of the judge presiding the court. For this reason, the widow, Isabel Gabriel, and co-administrator, Rudyardo Santiago, requested that the intestate case be transferred to the court holding sessions at Caloocan which was then presided over by Judge Villamor and this request was granted on February 4, 1953.

On April 6, 1953, co-administratrix Petrita Pascual and her co-heirs filed with the court at Caloocan a motion dated April 1, 1953, inviting the attention of the court to the pendency, among others, of their "Motion for sale of Real Estate" dated November 28, 1952 and praying that all the pending motions and incidents of the estate be referred to the branch of the court holding sessions at Pasig, Rizal. To this motion, petitioners herein filed a written opposition alleging among other reasons that the judges holding sessions at the Pasig branch were all vacation judges and could not therefore take full cognizance of the case with a view to its early settlement. Said motion dated April 1, 1953 was set for hearing on April 20, 1953.

On said date, April 20, 1953, counsel for petitioners as well as of respondents appeared and expressed their arguments in favor and against the motion. After the hearing, the court, then resided over by Judge Arca, issued an order dated April 29, 1953 granting the motion to sell the real properties of the estate and setting the date of the sale on May 30, 1953.

On May 19, 1953, petitioners filed a motion praying that the order of the court dated April 29, 1953 be set aside on the ground that that motion was not before the court for consideration during the hearing that took place on

April 20, 1953, but the motion filed by respondents wherein they prayed that the intestate case be referred to the branch of the court holding sessions at Pasig and therefore said order was null and void because it was issued in violation of the rules of court. In the meantime, petitioners also requested that the date of the sale be postponed until their motion for reconsideration had been acted upon. This petition was granted and the sale was reset for June 17, 1953, but the motion for reconsideration was denied. Hence, this petition for certiorari.

The question to be determined hinges on the validity of the order issued by Judge Francisco Arca dated April 29, 1953, which grants the motion to sell the real properties of the estate dated November 28, 1952, as well as the order issued by Judge Demetrio Encarnacion denying the motion for the reconsideration of said order.

Under the rules, when it appears that the sale of the whole or part of the real or personal estate will be beneficial to the heirs, devisees, legatees, and other interested persons, the court may, upon application of the executor or administrator and on written notice to the persons interested in the estate to be sold, authorize the sale, although not necessary to pay the debts, legacies or expenses of administration (section 4, Rule 90). This is the purpose of the motion under consideration. But the rule likewise provides that, when the court decides to authorize the sale, because it appears beneficial to the heirs, the same shall be made subject to certain regulations. Pertinent portions of these regulations are: (a) that the administrator shall file a written petition setting forth facts showing that the sale is necessary, and (b) the court shall fix a time and place for hearing such petition, and cause notice thereof to be given to the persons interested. And it has been held that these regulations are mandatory because failure to comply with them will have the effect of rendering the order authorizing the sale void as well as the sale made in pursuance thereof. (*Ortaliz vs. Registrar of Deeds of Occidental Negros*, 55 Phil., 33; *Hashim vs. Bautista Vda. de Nolasco*, 56, Phil., 788 *Estate of Gamboa vs. Floranza*, 12 Phil., 191.)

The question that now arises is: Were these regulations followed in the present case?

The answer must of necessity be in the negative for the simple reason that the motion filed by respondents for the sale of the real properties of the estate has not been set for hearing by the court as required by the regulations. It should be noted that said motion was primarily set for hearing by counsel on December 5, 1952, upon giving due notice to the opposite counsel, but that the motion was not actually heard because there was no

judge who could act and take cognizance thereof. Aside from that instance, the motion was never set for hearing again for which reason counsel for petitioners was surprised when he received copy of the order of the court granting the motion for the sale of the property. It is true, as counsel for respondents has explained, said motion was incidentally discussed at the hearing which took place on April 20, 1953 in connection with his motion for the transfer of the case to the Pasig branch of the court wherein counsel of both parties had occasion to discuss the merits relative to the sale of the properties of the estate, but such was not the purpose of the hearing, and counsel for petitioners went to the court not precisely to argue that matter but merely the question relative to the transfer of the case. Counsel even went to the extent of informing the court that it would be necessary for him to present evidence relative to the merits of the projected sale.

At any rate, it is clear that the authority to sell was granted in violation of the rule, and there being objection thereto, no other course is left than to abide by it considering the importance and far-reaching effects of the sale on the parties affected. No prejudice will be caused if the motion to sell is set again for hearing and the interested parties are given another chance to be heard.

We have not failed to note that the estate has been pending for nearly seventeen years without hope of an early settlement due perhaps, as alleged, to the desire of some heirs to continue reaping its benefit to the prejudice of the other heirs. We have also noticed that there are two administrators who were appointed to take care of the conflicting interests. There are also charges of falsification of accounts and of fictitious claims being foisted upon the state. Hence, the desire to sell the properties in order to avoid waste and misuse. But in our opinion, the remedy is not precisely the one proposed but to put an end to the administration. Some heirs may not agree to get rid of the properties for sentimental reasons, and so there is need to devise a way leading to the partition of the estate. We are inquisitive of the reason why so far no project of partition has been prepared and submitted to the court notwithstanding the long time the estate has been pending administration, and if such step is taken, we believe a way may be found whereby the properties may be distributed among the heirs without need of selling them as now proposed by the respondents. If an attempt is made in this direction we may find the key to the solution of the controversy.

Wherefore, the order of respondent Judges dated April 29, 1953 and May 27, 1953 are hereby set aside, and it is

ordered that a new date be set for the hearing of the "Motion for sale of Real Estate" dated November 28, 1952 as required by the rules, without costs.

Parás, C. J., Pablo, Bengzon, Montemayor, Jugo, Labrador, and Concepcion, JJ., concur.

Reyes, J., did not take part.

Order set aside.

[No. L-6220. May 7, 1954]

MARTINA QUIZANA, plaintiff and appellee, *vs.* GAUDENCIO REDUGERIO and JOSEFA POSTRADO, defendants and appellants.

1. OBLIGATION AND CONTRACTS; ACTIONABLE DOCUMENT; ABSENCE OF LEGAL PROVISION GOVERNING IT.—An agreement whereby the obligors bound themselves to pay their indebtedness on a day stipulated, and to deliver a mortgage on a property of theirs in case they failed to pay the debt on the day fixed, is valid and binding and effective upon the parties. It is not contrary to law or public morals or public policy, and not withstanding the absence of any legal provision at the time it was entered into governing it, as the parties had freely and voluntarily entered into it, there is no ground or reason why it should not be given effect.
2. ID.; FACULTATIVE OBLIGATION, ENFORCEABLE IMMEDIATELY.—The obligations entered into by the parties is what is known as a facultative obligation. It is not provided by the old Spanish Civil Code; it is a new right which should be declared effective at once, in consonance with the provisions of article 2253 of the Civil Code of the Philippines.

APPEAL from a judgment of the Court of First Instance of Marinduque. Ramos, J.

The facts are stated in the opinion of the court.

Samson and Amante for the defendants and appellants.

Sabino Palomares for the plaintiff and appellee.

LABRADOR, J.:

This is an appeal to this Court from a decision rendered by the Court of First Instance of Marinduque, wherein the defendants-appellants are ordered to pay the plaintiff-appellee the sum of ₱550, with interest from the time of the filing of the complaint, and from an order of the same court denying a motion of the defendants-appellants for the reconsideration of the judgment on the ground that they were deprived of their day in court.

The action was originally instituted in the justice of the peace court of Sta. Cruz, Marinduque, and the same is based on an actionable document attached to the complaint, signed by the defendants-appellants on October 4, 1948, and containing the following pertinent provisions:

Na alang-alang sa aming mahigpit na pangangailangan ay kaming magasawa ay lumapit kay Ginang Martina Quisana, bala, at naninirahan sa Hupi, Sta. Cruz, Marinduque, at kami ay umutang sa kanya ng halagang Limang Daan at Limang Pung Piso (P550.00), Salaping umiiral dito sa Filipinas na aming tinanggap na husto at walang kulang sa kanya sa condicion na ang halagang aming inutang ay ibabalik o babayaran namin sa kanya sa katapusan ng buwan ng Enero, taong 1949.

Pinagkasunduan din naming magasawa sa sakaling hindi kami makabayad sa taning na panahon ay aming ipifrenda o isasangla sa kanya ang isa naming palagay na niogan sa lugar nang Cororocho, barrio ng Balogo, municipio ng Santa Cruz, lalawigang Marinduque, Kapuluang Filipinas at ito ay nalilibot ng mga kahanganang sumusunod:

Sa Norte, Dalmacio Constantino; sa este, Catalina Reforma; sa sur, Dionisio Ariola; at sa oeste, Reodoro Ricamora. na natatala sa gobierno sa ilalim ng Declaración No. _____ na nasa pangalan ko, Josefa Postrado.

The defendants-appellants admit the execution of the document, but claim, as special defense, that since the 31st of January, 1949, they offered to pledge the land specified in the agreement and transfer possession thereof to the plaintiff-appellee, but that the latter refused said offer. Judgment having been rendered by the justice of the peace court of Sta. Cruz, the defendants-appellants appealed to the Court of First Instance. In that court they reiterated the defenses that they presented in the justice of the peace court. The case was set for hearing in the Court of First Instance on August 16, 1951. As early as July 30 counsel for the defendants-appellants presented an "Urgent Motion for Continuance," alleging that on the day set for the hearing (August 16, 1951), they would appear in the hearing of two criminal cases previously set for trial before they received notice of the hearing on the aforesaid date. The motion was submitted on August 2, and was set for hearing on August 4. This motion was not acted upon until the day of the trial. On the date of the trial the court denied the defendants-appellants' motion for continuance, and after hearing the evidence for the plaintiff, in the absence of the defendants-appellants and their counsel, rendered the decision appealed from. Defendants-appellants, upon receiving copy of the decision, filed a motion for reconsideration, praying that the decision be set aside on the ground that sufficient time in advance was given to the court to pass upon their motion for continuance, but that the same was not passed upon. This motion for reconsideration was denied.

The main question raised in this appeal is the nature and effect of the actionable document mentioned above. The trial court evidently ignored the second part of defendants-appellants' written obligation, and enforced its last first part, which fixed payment on January 31, 1949. The plaintiff-appellee, for his part, claims that this part of the

written obligation is not binding upon him for the reason that he did not sign the agreement, and that even if it were so, the defendants-appellants did not execute the document as agreed upon, but, according to their answer, demanded the plaintiff-appellee to do so. This last contention of the plaintiff-appellee is due to a loose language in the answer filed with the Court of First Instance. But upon careful scrutiny, it will be seen that what the defendants-appellants wanted to allege is that they themselves had offered to execute the document of mortgage and deliver the same to the plaintiff-appellee, but that the latter refused to have it executed unless an additional security was furnished. Thus the answer reads:

5. That immediately after the due date of the loan Annex "A" of the complaint, *the defendants made efforts to execute the necessary documents of mortgage and to deliver the same to the plaintiff, in compliance with the terms and conditions thereof*, but the plaintiff refused to execute the proper documents and insisted on another portion of defendants' land as additional security for the said loan; (Italics ours.)

In our opinion it is not true that defendants-appellants had not offered to execute the deed of mortgage.

The other reasons adduced by the plaintiff-appellee for claiming that the agreement was not binding upon him also deserves scant consideration. When plaintiff-appellee received the document, without any objection on his part to the paragraph thereof in which the obligors offered to deliver a mortgage on a property of theirs in case they failed to pay the debt on the day stipulated, he thereby accepted the said condition of the agreement. The acceptance by him of the written obligation without objection and protest, and the fact that he kept it and based his action thereon, are concrete and positive proof that he agreed and consented to all its terms, including the paragraph on the constitution of the mortgage.

The decisive question at issue, therefore, is whether the second part of the written obligation, in which the obligors agreed and promised to deliver a mortgage over the parcel of land described therein, upon their failure to pay the debt on a date specified in the preceding paragraph, is valid and binding and effective upon the plaintiff-appellee, the creditor. This second part of the obligation in question is what is known in law as a facultative obligation, defined in article 1206 of the Civil Code of the Philippines, which provides:

ART. 1206. When only one prestation has been agreed upon, but the obligor may render another in substitution, the obligation is called facultative.

* * *

This is a new provision and is not found in the old Spanish Civil Code, which was the one in force at the time of the execution of the agreement.

There is nothing in the agreement which would argue against its enforcement. It is not contrary to law or public morals or public policy, and notwithstanding the absence of any legal provision at the time it was entered into governing it, as the parties had freely and voluntarily entered into it, there is no ground or reason why it should not be given effect. It is a new right which should be declared effective at once, in consonance with the provisions of article 2253 of the Civil Code of the Philippines, thus:

ART. 2253. * * * But if a right should be declared for the first time in this Code, it shall be effective at once, even though the act or event which gives rise thereto may have been done or may have occurred under the prior legislation, provided said new right does not prejudice or impair any vested or acquired right, of the same origin.

In view of our favorable resolution on the important question raised by the defendants-appellants on this appeal, it becomes unnecessary to consider the other question of procedure raised by them.

For the foregoing considerations, the judgment appealed from is hereby reversed, and in accordance with the provisions of the written obligation, the case is hereby remanded to the Court of First Instance, in which court the defendants-appellants shall present a duly executed deed of mortgage over the property described in the written obligation, with a period of payment to be agreed upon by the parties with the approval of the court. Without costs.

Parás, C. J., Pablo, Bengzon, Montemayor, Jugo, Bautista Angelo, and Concepcion, JJ., concur.

Judgment reversed.

[No. L-6538. May 10, 1954]

PABLO BURGUETE, petitioner, *vs.* JOVENCIO Q. MAYOR, as Provincial Governor of Romblon, and ESTEBAN B. MONTESA, as Acting Municipal Mayor of Badajoz, Romblon, respondents.

ADMINISTRATIVE LAW; MUNICIPAL OFFICERS; GROUNDS FOR SUSPENSION.—The mere filing of an information for libel against a municipal officer is not a sufficient ground for suspending him. The same may be said with regard to serious slander, which is another form of libel. Libel does not necessarily involve moral turpitude. It would be an easy expedient to file a criminal complaint or information against a municipal mayor for the purpose of suspending him, and the suspension would last almost indefinitely, according to the time that would elapse before the criminal case is finally terminated by conviction or acquittal.

ORIGINAL ACTION in the Supreme Court. Mandamus and quo warranto.

The facts are stated in the opinion of the court.

Aguedo F. Agbayani, Cirilo C. Montejo and Felix B. Morada for the petitioners.

Francisco H. Marcial, Provincial Fiscal of Romblon, for the respondents.

JUGO, J.:

The petitioner, Pablo Burguete, is the municipal mayor of Badajoz, Province of Romblon, and was elected for that position in November, 1951; the respondent, Jovencio Q. Mayor, is the provincial governor of Romblon; and Esteban B. Montesa, the acting municipal mayor of Badajoz, Province of Romblon.

On August 21, 1952, a criminal complaint for serious slander was filed against Burguete in the justice of the peace court of Badajoz.

On October 7, 1952, the case was forwarded to the Court of First Instance of Romblon.

On November 13, 1952, Jovencio Q. Mayor suspended the petitioner as mayor on the ground that a criminal case against him was pending, and that it was the "standing policy of the Administration to place under suspension any elective official against whom a criminal action involving moral turpitude is pending adjudication before the competent court."

The Governor directed Esteban B. Montesa, the vice-mayor, to act as mayor.

Burguete now files in this Court a petition for *mandamus* and *quo warranto* against Mayor and Montesa.

The case for serious slander against Burguete is still pending in the Court of First Instance.

Burguete has filed a motion to quash, but it was denied. The case could not be tried on the merits on account of the non-appearance of the witnesses for the prosecution.

No administrative investigation by the provincial board has been conducted under section 2188 of the Administrative Code.

The questions raised in this case are not new, as they have already been decided in the case of *Lacson vs. Roque*, (49 Off. Gaz., 93). There it was held that the mere filing of an information for libel against a municipal officer is not a sufficient ground for suspending him. The same may be said with regard to serious slander, which is another form of libel. Libel does not necessarily involve moral turpitude. Furthermore, it would be an easy expedient to file a criminal complaint or information against a municipal mayor for the purpose of suspending him, and the suspension would last almost indefinitely, according to the time that would elapse before the criminal case is finally terminated by conviction or acquittal. It is unnecessary to elaborate here on the reasons given for the principle, as they are set forth extensively in said decision.

Our conclusion is that the suspension of the petitioner is illegal and unjustified.

In view of the foregoing, the respondent Jovencio Q. Mayor is ordered to reinstate the petitioner Pablo Burguete in his office as municipal mayor of Badajoz, Romblon, and to oust the respondent Esteban B. Montesa, as such officer, with cost against the respondents.

It is so ordered.

Parás, C. J., Pablo, Bengzon, Montemayor, Reyes, Bautista Angelo, Labrador, and Concepcion, JJ., concur.

Petition granted.

[No. L-5694. May 12, 1954]

PAMBUJAN SUR UNITED MINE WORKERS, plaintiff and appellant, *vs.* SAMAR MINING COMPANY, INC., defendant and appellee.

1. COURT OF INDUSTRIAL RELATIONS; JURISDICTION OF.—The complaint alleging that the defendant refused to abide by the terms of the Collective Bargaining Contract “in spite of the repeated written demands of the plaintiff union” is a dispute between employer and employee within the jurisdiction of the Court of Industrial Relations.
2. *Id.*; *Id.*; EXCLUSIVE OF COURTS OF FIRST INSTANCE.—Such jurisdiction is exclusive of Courts of First Instance.
3. *Id.*; *Id.*; NUMBER OF EMPLOYEES REQUIRED TO CONFER JURISDICTION.—As the action was brought by the plaintiff union having 350 member-employees, the controversy concerns more than 30 employees.

APPEAL from an order of the Court of Industrial Relations.

The facts are stated in the opinion of the court.

L. L. Reyes and *Alfredo O. Singzon* for the appellant.
J. M. Cajucom for the appellee.

BENGZON, *J.*:

The issue in this appeal is whether the jurisdiction of the Court of Industrial Relations over certain controversies between employer and employees is exclusive of the regular courts of justice.

In the Court of First Instance of Samar, on December 6, 1951, the Pambujan Sur United Mine Workers, a registered labor union, filed against the Samar Mining Company, Inc. a complaint alleging breach of their closed-shop agreement, the pertinent portion of which read:

“That the EMPLOYER (Samar Mining Co.) shall not employ any worker or workers for its mine operation without first consulting the UNION (Pambujan Sur United Mine Workers) through its authorized representatives, as to whether it could furnish the necessary workers that the EMPLOYER may require from time to time for the mine, and in this event the UNION shall be given 3

days within which to produce the worker or workers needed by the EMPLOYER, and if after this period the said labor organization can not produce the required worker or workers, the EMPLOYER shall have the right to hire * * *."

The complaint, as amended, averred that, in violation of the agreement, defendant had been hiring and continued to hire permanent workers who were not members of the plaintiff union, without consulting said union, nor giving it the three-day period for procuring laborers. Then it said that as result of the breach, the plaintiff had suffered damages amounting to P210,000. Wherefore it asked: that defendant be required to desist from again violating their covenant; that plaintiff be allowed to replace with its members those laborers already hired who are not members of the union; that defendant be ordered to pay damages in the sum of P210,000 and that other just and equitable remedies be granted. Attached to the complaint were copies of the Collective Bargaining Contract signed February 17, 1950 and its modification signed August 6, 1951, by plaintiff and defendant.

Summoned to answer, the mining company submitted in due time a motion to dismiss, on the ground that the court of Samar had no jurisdiction over the subject-matter, i.e., "differences as regards conditions of employment which is within the jurisdiction of the Court of Industrial Relations." The motion was supported by argument and citation of authorities. The plaintiff replied, in a memorandum, that in creating the Court of Industrial Relations, the law never meant "to supersede the function of the regularly created judicial courts etc."

The Hon. Emilio Benitez, judge, by order dated February 11, 1952, upheld the motion, and dismissed the complaint. Hence this appeal.

The issue stated at the beginning of this decision involves in reality two separate inquiries, to wit: (a) was the subject-matter of the complaint a question cognizable by the Court of Industrial Relations? and (b) if so, is the jurisdiction of such court exclusive, or merely concurrent?¹

The Court of Industrial Relations established by Commonwealth Act No. 103 has jurisdiction "over the entire Philippines to consider, investigate, decide and settle all questions, matters, controversies or disputes arising between and/or affecting employers and employees or laborers, and landlords and tenants or farm-laborers, and regulate the relations between them" subject to the pro-

¹ Appellant says the issue was the jurisdiction of the lower court to entertain its complaint. Correct. But that issue depended upon the two points which this decision will examine and settle, with the aid of carefully prepared briefs and memoranda on both sides.

visions of the Act (Section 1). The Act enjoins the court to "take cognizance for purposes of prevention, arbitration, decision and settlement of any industrial or agricultural dispute causing or likely to cause a strike or lockout, arising from differences as regards wages * * * dismissals or suspension of employees * * * or conditions of tenancy or employment between the employers and employees * * * provided that the number of employees involved exceeds thirty, and such industrial or agricultural dispute is submitted to the court by the Secretary of Labor or by any or both of the parties to the controversy. (Section 4.)

In addition to the clause hereinbefore quoted, the Collective Bargaining Contract, attached to plaintiff's complaint contains these stipulations:

"2. Effective as of the enforcement of the Minimum Wage Law on August 6, 1951, the wages of laborers shall be, at least P3.00 per day, * * *;

3. An additional compensation of thirty per cent (30%) over the basic daily wage should be paid for night work, * * *;

4. "Tragedy compensation" or compensation according to the requirement of the Compensation Act, as hereinafter computed by the Bureau of Labor shall be paid by the Employer to the respective beneficiaries of the deceased workers, * * *;

5. Wage payments shall be regularly made once every fortnight, * * *;

6. Every worker who has heretofore rendered one year of continuous service is entitled to 18 days vacation leave with pay, * * *;

7. Every worker who has heretofore rendered one year of continuous service is entitled to 15 days sick leave with pay, * * *;

8. The EMPLOYER does not tolerate any short-changing, and will see to it that no member of supervision shall short-change any worker, * * *;

10. Thirty minutes of meal time shall be allowed for each shift, * * *

It is apparent from the foregoing that said contract embodies terms or conditions under which Samar Mining Company, Inc. agreed to employ the Pambujan Sur United Mine Workers, and the latter agreed to work for said mining company. In the complaint it is alleged that the company refused to abide by the terms of the contract "in spite of the repeated written demands of the plaintiff" for compliance therewith. The matter was therefore a dispute—industrial because mining is industry—between employer and employees; and such dispute falls within the broad jurisdiction of the Court of Industrial Relations (Sec. 1, Commonwealth Act 103). And as the dispute arose from differences regarding "conditions of employment" of 350 members of the plaintiff union, actually in the employ of defendant, bitterness is likely to ensue, leading probably to a strike; and the Court of Industrial Relations is duty bound to assume cognizance of it at the request of any of the parties to the controversy

(Sec. 4, Commonwealth Act 103). In this case the employer urges, and therefore requests, the intervention of the Court of Industrial Relations. So that, whether section 1 of Act 103 or section 4 is applied, the result is the same: the matter falls within the power of the Court of Industrial Relations.

But plaintiff-appellant argues that its purpose is to compel the defendant "to employ as its laborers only members of the union"; and therefore until those members are actually employed there is no employer-employee relationship to call for the Industrial Court's intervention. The argument forgets that the Union counts with 350 employees of the defendant, and the controversy is between such employees and the employer. Incidentally it may be noted that, as plaintiff seeks the dismissal of those workers hired in violation of the Collective Bargaining Contract, the differences further relate to "dismissals" of employees within the meaning of section 4 of Commonwealth Act No. 103.

That the controversy concerns more than 30 employees is clear. The Union has 350 member-employees and all are suing to enforce the Collective Bargaining Contract. It is inaccurate to state that "the present action does not for the violation of the bargaining contract by the who are members of the plaintiff union, but its remaining unemployed members who should have been employed if not for the violation of the bargaining contract by the defendant." The action is by the Union; therefore all its members whether actual employees or would-be employees—are affected.² The Members of the Union, who are actual employees have a vital interest in the fulfillment of the obligation resulting from the bargaining contract, specially the clause allegedly broken by defendant. Otherwise it would not have been inserted in the said contract.

Perhaps it is unnecessary to dwell at this time upon the significance and usefulness of collective bargaining agreements and closed-shop stipulations. Nevertheless it may be pointed out that "it lies at the very heart of 'labor-management' relations" and "the institution seems certain to grow, at least as long as there survives the political democracy whose achievement it has followed."³ Indeed one of the four major policies of the Industrial Peace Act⁴ recently approved, is to "advance the settlement of issues between employers and employees thru collective bargaining."⁵

² Commonwealth Act 213, section 2.

³ Francisco Labor Laws, p. 142, citing an article on Labor-Management Relations in LXI Harvard Law Review.

⁴ Republic Act No. 875 effective June 17, 1953.

⁵ Sec. 1 (c) Republic Act No. 875.

Several controversies involving collective bargaining have been submitted for adjudication to the Court of Industrial Relations.⁶

Contrary to appellant's contention, the demand for damages is no obstacle to the Industrial Court's jurisdiction, such damages being evidently the wages lost to members of the Union, who should have been employed—but were not employed—by the defendant. It is undeniable that the Court of Industrial Relations has authority to require payment of such wages should it find the claim to be just or equitable.⁷ For as appellee has emphasized in its brief, the court may include in its award *any matter* or determination which may be deemed necessary or expedient for the purpose of settling the dispute. (Sec. 13, Com. Act 103)

Therefore this court's opinion is that the issues tendered in the plaintiffs' amended complaint fall within the allotted jurisdiction of the Industrial Court. This is not to say that *every* dispute between employer and employee or between landlord and tenant must be brought to the Industrial Court. Some do not fall within its jurisdiction. For instance where the number of employees affected does not exceed thirty.

There remains the question whether such jurisdiction is exclusive of Courts of First Instance.

The jurisdiction of a court is exclusive either by express declaration of the statute, or by clear implication from the provisions thereof.⁸

Commonwealth Act No. 103 with its amendments does not explicitly confer *exclusive* jurisdiction on the Industrial Court.

Unquestionably, Congress could have so directed, because it has, under the Constitution, power to apportion and diminish the jurisdiction of courts inferior to the Supreme Court. It has furthermore specific constitutional authority to regulate the relations between capital and labor⁹ which naturally includes the power to establish an agency exclusively to handle labor controversies, subject, of course, to the revisory power of the Supreme Court. Congress did not in so many words declare the jurisdiction to be exclusive. Did it intend to make it exclusive?

⁶ Manila Oriental Sawmill *vs.* National Labor Union, G. R. No. L-4330 March 24, 1952; Liberal Labor Union *vs.* Philippine Can Company, G. R. L-4834 March 28, 1952.

⁷ *cf.* Bardwill Bros. *vs.* Phil., Labor Union 40 R. G. No. 12, p. 185; Union of Phil., Education Employees *vs.* Phil., Education. G. R. L-4433 March 31, 1952; Francisco Labor Laws, p. 277.

⁸ 21 C. J. S., 730.

⁹ Article XIV, section 6, Constitution.

For the settlement of labor disputes Commonwealth Act No. 103 gave the Industrial Court special powers, not ordinarily granted to courts of first instance, powers particularly adapted to the speedy and equitable settlement of the industrial or agricultural dispute.¹⁰ For example:

(a) The power to delegate investigation of the controversy to any board or person (Section 6);

(b) The power to enforce its order by contempt proceedings (Section 6);

(c) The power to hear in any suitable place, to refer the matter to an expert and accept his report as evidence (Section 7). Reference may also be made to a provincial fiscal, justice of the peace etc. (Section 10);

(d) The power to require the services of any Government official or employee, without additional compensation (Section 11);

(e) The power to act without regard to technicalities or legal forms or rules of legal evidence (Section 20);

(f) And the authority to include in its decision or award any matter or determination which may be deemed necessary or expedient for the purpose of settling the dispute or preventing further disputes (Section 13).

And foreseeing the probability that the dispute will produce unrest, paralization of industrial production and economic hardship of the community, Commonwealth Act No. 103 has imposed on the disputants certain duties to be observed *pro bono público* during the pendency of the matter before the Industrial Court: For instance, the duty of the employee not to strike or walk out of his employment, and the corresponding obligation of the employer to refrain from employing others and from discharging the employees engaged in fighting his acts or policies. These correlative obligations do not obtain where the debate is staged before ordinary courts.

Therefore, it would seem that public convenience will best be served by requiring the Industrial Court's intervention in labor-management controversies likely to cause strikes or lockouts. A unified policy and centralized administration is thereby insured, the more effectively to cope with probably explosive contingencies.

On the other hand, objectionable consequences are apt to flow from a ruling that reserves co-ordinate jurisdiction to the regular courts. The employees who desire to keep, aloft and threatening, labor's peculiar weapon (strike), or who contemplate the eventual use thereof, will elect recourse to the judiciary—not to the Industrial Court. The same choice will be made by the employer who plans dismissal of some employees in the heat of the contest. And to complicate the situation, one party¹¹

¹⁰ It is "more an administrative board" whose function is "more active, affirmative and dynamic" than a court of justice. (Ang Tibay vs. Court of Industrial Relations, 69 Phil., 635).

¹¹ Note that *any party* to the dispute may request the Court's Aid.

might invoke the intervention of the Industrial Court to forestall the "strategic" move or hidden motives of the adversary. Even the Secretary of Labor could bring the issues to the Industrial Court.

Two plain propositions are thus made manifest: Congress had power to give exclusive jurisdiction to the Industrial Court; it is convenient that such jurisdiction be exclusive. And the resultant inference, rational and sound, is that Congress meant it to be exclusive, since the lawmaking body is presumed to have intended to do the right thing (article 10 New Civil Code).¹²

We have heretofore reached the same conclusion in a parallel situation. In *Ojo et al. vs. Jamito et al.*¹³ we ruled that article 461 granting to the Department of Justice jurisdiction to determine cases in which a tenant may be dispossessed by the landlord, *must be construed* to have taken those cases out of the general jurisdiction of the courts of first Instance.

Indeed there are authorities to the effect that "where jurisdiction is conferred in express terms upon one court, and not upon another, it has been held that it is the intention that the jurisdiction conferred shall be exclusive."¹⁴

To be sure, as plaintiff discloses, several prominent American courts follow the opposite line of thought. But judicial wisdom in this particular matter would seem to favor adherence to the exclusion theory, what with the litigant's ordinary duty to exhaust administrative remedies and the "doctrine of primary administrative jurisdiction," sense-making and expedient,

"That the courts cannot or will not determine a controversy involving a question which is within the jurisdiction of an administrative tribunal prior to the decision of that question by the administrative tribunal, where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience, and services of the administrative tribunal to determine technical and intricate matters of fact, and a uniformity of ruling is essential to comply with the purposes of the regulatory statute administered." (42 Am. Jur., 698.)

Our construction of the legislative will to confer exclusive jurisdiction—particularly as to collective bargaining contracts—is confirmed by Republic Act No. 875 effective June 17, 1953. Entitled "An Act to Promote Industrial Peace" and designed partly to advance the settlement of issues between employers and employees thru collective

¹² Decisive argument, years ago, in a famous theological debate: *Potuit, deuit, ergo fecit*. He could do it, it was proper to do it, therefore He did it.

¹³ Suppl. No. 11, Vol. 46 Off. Gaz., p. 219; See also *Peña vs. Arellano*, same suppl. p. 228.

¹⁴ 21 C. J. S., p. 730.

bargaining, it expressly provides that the jurisdiction of the Court of Industrial Relations "shall be exclusive" to prevent "unfair labor practices," which term embraces a refusal to bargain collectively (section 4, paragraph 6) and termination or modification of the collective bargaining agreement (section 13) including, inferentially, any breach or disregard of such agreement.

Wherefore, premises considered, the appealed order is hereby affirmed, with costs.

Parás, C. J., Pablo, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, and Concepcion, concur.

Order affirmed.

[No. L-6765. May 12, 1954]

FULGENCIO VEGA and LEON GELLADA, plaintiffs and appellees, *vs.* THE MUNICIPAL BOARD OF THE CITY OF ILOILO ET AL., ETC., defendants and appellants.

1. MUNICIPAL CORPORATIONS; POWERS AND DUTIES OF; POWERS STRICTLY CONSTRUED.—Municipal corporations in the Philippines are mere creatures of Congress. As such, said corporations have only such powers as the legislative department may have deemed fit to grant them. By reason of the limited powers of local governments and the nature thereof, said powers are to be construed strictly and "any doubt or ambiguity arising out of the terms used in granting" said powers "must be resolved against the municipality."
2. *Id.*; POWERS AND DUTIES OF THE MUNICIPAL BOARD OF THE CITY OF ILOILO.—Section 21 of Commonwealth Act No. 158, creating the charter of the City of Iloilo, limits the power of the Municipal Board to regulate "any business or occupation"; obviously, the use of a street, road or highway by a motor vehicle is neither a business nor an occupation.
3. *Id.*; POWER TO INSPECT MOTOR VEHICLES; COMMONWEALTH ACT No. 158 SUBJECT TO LIMITATIONS OF ACT No. 3992.—Act No. 3992, as amended by Republic Act No. 587, grants the Director of Public Works, among others, the power to determine whether a motor vehicle is in such a condition as to be safe for its passengers and the public in general. Considering the general tenor of the provisions of said Act, as well as those of the Charter of the City of Iloilo, Congress did not intend to clothe the latter with authority to impose certain requirements—in addition to those provided in Act No. 3992, as amended—as a condition precedent to the use of motor vehicles within the limits of the City of Iloilo.

APPEAL from a judgment of the Court of First Instance of Iloilo, Makalintal, *J.*

The facts are stated in the opinion of the court.

Filemon Resureccion for the defendants and appellants.

Luis G. Hofileña for the plaintiffs and appellees.

CONCEPCION, *J.*:

This is an action for a declaratory relief (under Rule 66 of the Rules of Court) to test the validity of Municipal Or-

dinance No. 35 of the City of Iloilo, enacted on July 12, 1951, which provides:

"Section 1. No motor vehicle, whether for public or private use, with the exception of those owned and operated by the Republic of the Philippines, the Provinces of Iloilo, Capiz and Antique, and the municipalities thereto appertaining, the City of Iloilo, and those new motor vehicles offered for sale by dealers, but not used for transportation purposes by such dealers, shall use any street, road or highway within the territorial limits of the City of Iloilo without being provided with certificate issued by the Traffic Division of the Police Department of this City, stating that said vehicle has been inspected by said Traffic Division, and found to be provided with safe brakes and appurtenances making the use of the same travel worthy and safe for passengers and pedestrians alike. The certificate shall be attached or posted in a conspicuous place in the corresponding motor vehicle, preferably on the windshield glass facing the front.

"Section 2. All owners and/or operators of the motor vehicles hereinabove mentioned must submit his motor vehicles for inspection by the Traffic Division of the Police Department of this City within ten days upon acquisition of the same from the original owner, and within the period from January 1 to February 28, and from July 1 to August 30 of each year if the same has previously been inspected and certified to be travel worthy by said Traffic Division.

"SECTION. 3. For the services rendered by the Traffic Division in the inspection and certification of any motor vehicle the owner or operator of the same shall pay to the City Treasurer a fee as follows:

"For every automobile, jeep, jitney or station wagon for each semester	P3.00
"For every truck per semester	5.00
"For every motorcycle per semester	1.00

"Provided, however, that no more than two inspection fees shall be charged within one year and all other inspections on the same vehicle shall be free of charge.

"Section 4. All motor vehicles coming from outside of the territorial limits of this City for the first time shall immediately report for inspection to the Traffic Division, and the payment of the required fee may be made within ten days from the date of said inspection, and the issuance of the certificate shall not be delayed for non-payment when and if said motor vehicles are found to be travel worthy and a sufficient personal bond for the payment of the required fee is filed with and accepted by the Chief of Police or his authorized agent.

"Section 5. Failure to comply with the provisions of this ordinance shall be punished with a fine not less than ten pesos (P10.00) but not more than two hundred pesos (P200.00) or an imprisonment not exceeding 6 months, or both fine and imprisonment at the discretion of the Court.

"Section 6. This ordinance shall take effect upon approval." (Pp. 12-15, Record on Appeal.)

The case was commenced in the Court of First Instance of Iloilo by Fulgencio Vega and Leon Cellada, who own motor vehicles and are affected by the enforcement of said ordinance. They question the validity thereof upon the ground that the Municipal Board of the City of Iloilo, which was made defendant, in addition to the City Mayor has no authority to promulgate it. On motion of the plaintiffs,

and without objection on the part of the defendants, the case was submitted for decision on the pleadings, the only issue raised therein being one purely of law. Thereafter, said court, presided over by Honorable Querube Makalintal, then Judge, rendered judgment for the plaintiffs. Hence, this appeal, taken by the defendants, who maintain that the Municipal Board of the City of Iloilo is empowered to pass the ordinance in question, under section 21 of its charter, Commonwealth Act No. 158. The provisions thereof relied upon by appellants read:

"SEC. 21. *General powers and duties of the Board.*—Except as otherwise provided by law, and subject to the conditions and limitations thereof, the Municipal Board shall have the following legislative powers:

* * * * *

"(aa) To enact all ordinances it may deem necessary and proper for the sanitation and safety, the furtherance of the prosperity and the promotion of the morality, peace, good order, comfort, convenience, and general welfare of the city and its inhabitants, and such others as may be necessary to carry into effect and discharge the powers and duties conferred by this charter; and to fix penalties for the violation of ordinances, which shall not exceed a fine of two hundred pesos or six months' imprisonment, or both such fine and imprisonment, for each offense.

* * * * *

"(cc) To regulate any business or occupation and to require license from persons engaged in the same or who exercise privileges in the city, by requiring them to secure a permit for a license at the rate fixed by the Municipal Board, and to prescribe the conditions under which said permits for licenses may be revoked."

The foregoing paragraph (cc) is limited, however, to the power to regulate "any business or occupation" whereas, obviously, the use of a street, road or highway by a motor vehicle is neither a business nor an occupation. Hence, it is clear that said paragraph (cc) is not in point.

As regards paragraph (aa), the same is a counterpart of section 2238 of the Revised Administrative Code, otherwise known as the "General Welfare Clause" for regularly organized municipalities. In the case of *People vs. Esguerra et al.*, (45 Off. Gaz., 4949), it was held that a municipal council may not validly enact an ordinance "prohibiting", among other things, the manufacture, production, sale, barter, giving or possession of intoxicating liquor, the power of said body being limited, by section 2242 (g) of the Revised Administrative Code, to the "regulation"—which does not include the "prohibition"—of said acts, and that the police power under the general welfare clause does not amplify said authority or remove the limitation thus imposed by specific provision of law. Under Commonwealth Act No. 158, the authority of the Municipal Board of the City of Iloilo in relation to motor vehicles, is found in subdivision (m) of section 21 of said Act which grants said board the power

"(m) To tax motor and other vehicles, notwithstanding provisions to the contrary contained in Act Numbered Thirty-nine hundred and ninety-two, and draft animals not paying any national tax: *Provided, however,* That all automobiles and trucks belonging to the National Government or to any provincial or municipal government, and also automobiles or trucks not regularly kept in the City of Iloilo shall be exempt from such tax."

This power of taxation is distinct and different from the police power, under which, appellants claim, the ordinance in question was allegedly approved. Moreover, said Commonwealth Act No. 158 explicitly empowers the Municipal Board of the City of Iloilo to require inspection and to charge fees therefor in certain specified cases. Thus, said section 21 authorizes said board:

"(n) To regulate the method of using steam engines and boilers, other than marine or belonging to the Federal or National Government; *to provide for the inspection thereof, and a reasonable fee for such inspection,* and to regulate and fix the fees for the licenses of the engineers engaged in operating the same. (Underscoring supplied.)

* * * * *

"(s) To regulate the inspection, weighing, and measuring of brick, coal, lumber, and other articles of merchandise.

"(t) * * * to provide for the inspection of, fix the license fees for and regulate the openings in the same for the laying of gas, water, sewer, and other pipes, the building and repair of tunnels, sewers, and drains, and all structures in and under the same, and the erecting of poles and the stringing of wires therein; * * *.

* * * * *

"(w) To regulate, *inspect,* and provide measures preventing any discrimination or the exclusion of any race or races in or from any institution, establishment, or service open to the public within the city limits or in the sale and supply of gas or electricity, or in the telephone and street-railway service; to fix and regulate charges therefor where the same have not been fixed by laws of the National Assembly; *to regulate and provide for the inspection* of all gas, electric, telephone, and street-railway conduits, mains, meters, and other apparatus, and provide for the condemnation, substitution or removal of the same when defective or dangerous."

Among these cases, the inspection of motor vehicles and the collection of fees therefor is not included. Consequently, the power to authorize same must be considered denied under the principle *expressio unius est exclusio alterius*.

Indeed, the powers enumerated in said section 21 of Commonwealth Act No. 158, including, therefore, the police power under the general welfare clause therein incorporated, are granted "except as otherwise provided by law and subject to the conditions and limitations thereof." In this connection, section 70(b) of Act No. 3992, as amended by section 17 of Republic Act No. 587, positively ordains that:

"No other taxes or fees than those prescribed in this Act shall be imposed for the registration or operation or on the ownership of any motor vehicle, or for the exercise of the profession of chauffeur, by any municipal corporation, the provisions of any city charter to the contrary notwithstanding: *Provided, however,* That any provincial board, city or municipal council or board, or other competent

authority may exact and collect such reasonable and equitable toll fees for the use of such bridges and ferries, within their respective jurisdictions, as may be authorized and approved by the Secretary of Public Works and Communications, and also for the use of such public roads, as may be authorized by the President of the Philippines upon recommendation of the Secretary of Public Works and Communications, but in none of these cases, shall any toll fees be charged or collected until and unless the approved schedule of tolls shall have been posted legibly in a conspicuous place at such toll station."

The qualification "the provisions of any city charter to the contrary notwithstanding" leaves no room for doubt that the provisions of Commonwealth Act No. 158 and its general welfare clause, under section 21 (*aa*), are subject to the limitations thus imposed by Act No. 3992, as amended by Republic Act No. 587. This construction becomes even more imperative when we consider that, pursuant to said Act No. 3992,

"No motor vehicle shall be used or operated on, or upon any public highway of the Philippine Islands unless the same is properly registered for the current year in accordance with the provisions of this Act" (Sec. 5[a]),

and that section 4 of the same Act places the Director of Public Works "in charge of the administration" of its provisions, and grants him, among others, the power

"(h) * * * at any time to examine and inspect any motor vehicle, in order to determine whether the same is unsightly, *unsafe*, overloaded, improperly marked or equipped, or otherwise *unfit* to be operated because of possible danger to the chauffeur, to the passengers, or the public; or because of possible excessive damage to the highways, bridges or culverts." (Sec. 5, Act No. 3992.)

Thus, the power to determine whether a motor vehicle is in such a condition as to be safe for its passengers and the public in general, is vested by Act No. 3992 in the Director of Public Works. Considering the general tenor of the provisions of said Act, as well as those of the Charter of the City of Iloilo, we are not prepared to hold that Congress intended to clothe the latter with authority to impose certain requirements—in addition to those provided in Act No. 3992, as amended—as a condition precedent to the use of motor vehicles within the limits of the City of Iloilo. It is even harder to believe that the latter was sought to be invested with authority to ordain that the police department of Iloilo shall check whether an officer of the National Government, namely the Director of Public Works, has complied with his duty to test the mechanical proficiency of the safety devices of motor vehicles, on which the latter is supposed to be better qualified.

Municipal corporations in the Philippines are mere creatures of Congress. As such, said corporations have only such powers as the legislative department may have deemed fit to grant them. By reason of the limited powers of local

governments and the nature thereof, said powers are to be construed strictly and "any doubt or ambiguity arising out of the term used in granting" said powers "must be resolved against the municipality. * * * (Cu Unjieng *vs.* Patstone, 42 Phil., pp. 818, 830; Pacific Commercial Co. *vs.* Romualdez, 49 Phil., pp. 917, 924; Batangas Transportation Co. *vs.* Provincial Treasurer of Batangas, 52 Phil., pp. 190, 196; Baldwin *vs.* City Council, 53 Ala., p. 437; State *vs.* Smith, 31 Iowa, p. 493; 38 Am. Jur., pp. 68, 72-73)." (Icard *vs.* The City Council of Baguio and The City of Baguio, 46 Off. Gaz., Supplement No. 11, pp. 320, 323.) Accordingly, the lower court did not err in declaring that the ordinance in question is *ultra vires*.

Wherefore, the decision appealed from is hereby affirmed, without special pronouncement as to costs.

Parás, C. J., Pablo, Bengzon, Montemayor, Jugo, Reyes, Bautista Angelo, and Labrador, JJ., concur.

Padilla, J., did not take part.

Judgment affirmed.

[No. L-4918. May 14, 1954]

REPUBLIC OF THE PHILIPPINES, plaintiff and appellant, *vs.*
JOSE LEON GONZALEZ ET AL., defendants and appellants

1. CONSTITUTIONAL LAW; EMINENT DOMAIN; JUST COMPENSATION, HOW DETERMINED.—In determining just compensation or the fair market value of the property subject of expropriation proceedings, evidence is competent of bona fide sales of other nearby parcels at times sufficiently near to the proceedings to exclude general changes of values due to new conditions in the vicinity.
2. ID.; ID.; ID.; RESALE TO INDIVIDUALS.—Whether, in expropriations for resale to individuals, a more liberal interpretation of "just compensation" should be adopted, *quaere*.
3. ID.; ID.; ENTRY OF PLAINTIFF UPON DEPOSITING VALUE; OWNER ENTITLED TO INTEREST.—In condemnation proceedings the owner of the land is entitled to interest, on the amount awarded, from the time the plaintiff takes possession of the property.

APPEAL from a judgment of the Court of first instance of Rizal. Abaya, J.

The facts are stated in the opinion of the Court.

Angel M. Tesoro, Ramirez & Ortigas, Alberto V. Cruz, Guillermo B. Ilagan, Filemon I. Almazan and Fortunato de Leon for the defendants and appellants.

Solicitor General Pompeyo Diaz and Solicitor Antonio A. Torres for the plaintiff and appellant.

BENGZON, J.:

In January 1947, in the Court of First Instance of Rizal, the Republic started this proceeding under Com-

monwealth Act No. 539 for the purpose of expropriating an extensive tract of land—over 87 hectares—for resale to the tenants thereof. Situated within the Maysilo Estate, Caloocan, and originally covered by Transfer Certificate of Title No. 35486 the property is now represented by seven Transfer Certificates of Title, numbered and owned respectively: 1373 by Jose Leon Gonzalez; 1368 by Juan F. Gonzalez; 1369 by Maria C. Gonzalez-Hilario; 1372 by Concepcion A. Gonzalez-Virata; 1370 by Consuelo Gonzalez-Precilla; 1371 by Francisco Felipe Gonzalez; and 1374 by Jose Leon Gonzalez et al.

Eight kilometers north of Plaza Santa Cruz, 1.7 kilometers east of Rizal Avenue, and 2 kilometers above Highway 54, the estate is bounded by the Araneta Institute property, the Victoneta Inc., the Balintawak Estate Subdivision, the Seventh Day Adventists' land, and the Piedad Estate. It lies within the sites of the University of the Philippines and the Capitol and within the field of expansion of the City of Manila.

All the defendants at first opposed the compulsory sale; but subsequently they waived the objection, recognizing the social-justice aims of the Government, (there were about two hundred tenants) and agreed to the designation of commissioners to determine the reasonable market value of the property to be taken. Wherefore, in June 1948, the court appointed the following commissioners: Atty. Erasmo R. Cruz, recommended by defendants, Assistant Fiscal Sugueco, suggested by plaintiff, and Deputy Clerk Benito Macrohon, selected by the judge.

In the performance of their duties, the Commissioners received oral and documentary evidence, inspected the premises, and thereafter submitted one majority report, plus one minority report by Commissioner Sugueco. The first divided the property into two parts: one portion previously occupied by the U. S. Army with roads, playground, water and sewerage system, and valued at 5 pesos per square meter; and another consisting of rolling lands and rice fields priced at fifteen centavos per square meter. The report thereby fixed ₱1.75 per square meter as the average compensation for the entire estate. On the other hand Sugueco's minority opinion rated the whole parcel at ten centavos per square meter only.

The two reports provoked objections from both sides, whose oppositions were seasonably filed in writing. On May 6, 1949, obeying orders of the trial judge, Clerk of Court Severo Abellera repaired to the premises, made inquiries, and reported afterwards that the realty was fairly worth ₱1.90 per square meter.

Then on March 29, 1950, the Honorable Gavino Abaya, Judge, rendered his decision appraising the estate at ₱1.50 per square meter. It should be explained, in this con-

nection, that all defendants agreed the entire property should be evaluated as a whole, for the purpose of facilitating the award.

The parties petitioned for reconsideration. Denial thereof motivated this appeal both by the plaintiff and by the defendants.

The plaintiff, in a series of assignments reaches the conclusion, and submits the proposition, that "there is no reliable standard for determining the reasonable worth of the defendants' land except the tax declaration Exhibit B which puts its value at P28,850. * * *. Taking into account, however, that the assessed value is usually lower by $\frac{1}{3}$ of $\frac{1}{2}$ of the real market value, the defendants should be given an additional 30 per cent of P28,500 or P8,655."

Such position is clearly untenable. The declaration was made in 1927; and this Court can take judicial notice of the upward trend of values, particularly of lands in or near Manila. As a matter of fact, the revised assessment in 1948 valued the entire property at P366,150, i.e., 0.42 per square meter—which is more than ten times the 1927 assessment. And in its motion for reconsideration submitted to the lower court, plaintiff invoked, as "index of value" of the land, the sale made to Francisco R. Aguinaldo, one month before the expropriation, at one peso per square meter—thus giving the lot in question a total value of P871,982.

Another piece of evidence, indicative of prices in the vicinity, is Exhibit M showing the Seventh Day Adventists purchased in 1927, at the rate of P0.25 per square meter, a big lot adjoining the land to be expropriated. After twenty years the prices should be much higher. Yet the Government insists in compensating herein defendants at the rate of 0.04 per square meter. Obviously unmeritorious contention.

Now as to defendants' appeal. Although they took the view—in the court below—that the land's value could be reasonably fixed at P1.75 per square meter¹ the defendants here maintain they should be compensated at the rate P2.50 per square meter. They quote with approval His Honor's summary of their own evidence as follows:

"On November 28, 1945, Lorenzo Buenaventura bought and paid at P2 per square meter a lot which is almost adjoining the lands in question—it being separated only by a street called Sta. Quitoria (Exhibit "2"); that on July 29, 1949, the Balintawak Estate Inc., sold to Narciso T. Reyes a parcel of land at the rate of

¹ They said: "Wherefore, the herein defendants respectfully pray that the decision in question be reconsidered and amended by fixing the value for the purpose of compensation at an amount ranging from P1.75 to P2.50 per square meter * * *." Such language means the property could be bought at P1.75 per square meter. Some of defendants asserted P2 was just payment.

P2.84 per square meter (Exhibit "3-K"); that on December 29, 1946, Concepcion Andrea Gonzalez sold to Francisco R. Aguinaldo a portion of the property in question at P1 per square meter (Exhibit "3-L"); that on November 13, 1947, Jose M. Rato sold to the Araneta Institute of Agriculture 373,377 (3,730) square meters at the rate of P1 and P1.60 per square meter (Exhibit "3-N"); that on May 14, 1948, Ambrosio Pablo and Sons sold to Cromwell Cosmetic Export Company 20,764 square meters at the rate of P2.50 per square meter (Exhibit "3-O"); that on November 14, 1947, the Manila Golf Club sold to the Ayala & Company 367,817 square meters at the rate of P1.08 per square meter (Exhibit "3-P"); that on April 26, 1948, Ayala & Company sold to J. M. Tuason & Company the property described in Exhibit "3-P" at the rate of P2.50 per square meter; Julian Encarnacion, secretary of the Balintawak Estate Inc., subdivision, which adjoins the property in question, declared that the lots of said subdivision are sold from P6 to P12 per square meter in cash and from P9 to P15 per square meter by installment."

And they rely principally on the prices in Exhibits 3-K, 3-O and 3-Q because they "were sufficiently near in point of time with the the date of condemnation proceedings" to reflect true land values in the locality.

However such Exhibits cannot be taken as conclusive valuation. In Exhibit 3-K, the parcel was purchased from the Balintawak Estate Inc. a real estate subdivision corporation. Prices in realty subdivisions are necessarily higher, because of improvements therein, such as roads, bridges, curbs, etc. The sale in Exhibit 3-O, though exhibiting a higher valuation, cannot be literally followed because it refers to a much smaller lot on the provincial highway. The prices in 3-Q of the Manila Golf Club, refer to a lot nearer Manila by a kilometer. Hence defendants-appellants' demand for P2.50 per square meter may not be upheld.

Now having found plaintiff's proposition as unreasonable, and defendants' claim for P2.50 as unfounded, we may proceed to examine whether the trial court's determination of the market value should be modified, on the basis of the evidence of record. It is needless to repeat that the Government, in eminent domain proceedings, must pay just compensation or the fair market value, that such value represents the price which the property will bring when offered for sale by one who desires, but is not obliged, to sell and is bought by one who is under no imperative necessity of having it ² and that in determining such value, evidence is competent of bona fide sales of other nearby parcels at times sufficiently near to the proceedings to exclude general changes of values due to new conditions in the vicinity ³

² Manila Railroad Co. *vs.* Alan, 36 Phil., 500; Manila Railroad Co. *vs.* Caligrihan, 40 Phil., 326.

³ Manila Railroad Co. *vs.* Velasquez, 32 Phil., 286.

Parenthetically, in expropriations like this—for the benefit of other individuals, not directly benefiting the public—it might be interesting to inquire whether a more liberal interpretation of “just compensation” should be adopted in favor of *the owner who is compelled* to part with his private property for the exclusive benefit of a few. Consider that unlike other eminent domain proceedings, this does not directly benefit him as a part of the “public.”

However, this is unnecessary, for the record yields, sufficient elements of decision to make a just and equitable award.

The majority commissioners,⁴ rejecting the plaintiff's evidence, took into account the bona fide sales of nearby parcels and, aided by personal knowledge they gained thru inspection, arrived at the conclusion that the reasonable market value of the entire property was ₱1.75 per square meter. The dissenting commissioner's report, based mainly on the 1927 assessment values, proved too conservative to be of any help.

The Clerk of Court was specially instructed to make a new assessment, in view of conflicting reports and the objections of the parties. This officer after conducting an ocular inspection of the place and gathering information from people residing in the vicinity recommended ₱1.90 per square meter. After hearing the parties, the trial judge, in his discretion, estimated that under the circumstances, one peso and fifty centavos per square meter was reasonable compensation for the hacienda.

We have not been shown wherein the trial judge abused his discretion in reducing the prices recommended by the court's referees. Two purchase-and-sale transactions in 1947, about neighboring realty may shed favorable light upon His Honor's valuation.

In August 1947 Jose Ma. Rato sold to Victoneta Inc. 581,872 square meters of adjoining land at 0.85 per square meter (Exhibit 3-M).

In July 1947 Jose Ma. Rato sold to Araneta Institute of Agriculture four parcels of land totalling 373,377 square meters adjoining the land sold by Exhibit 3-M at prices ranging from ₱1 to ₱1.60 per square meter. No improvements were included in both sales.

These two parcels, being sufficiently large and located within the vicinity may afford some adequate bases of comparison. It is unimportant that the sales were consummated several months after these proceedings had begun, because unlike other eminent domain proceedings for public use—roads, bridges, canals, market, etc.—these do not tend to inflate prices of adjoining properties.

⁴ One of them appointed by the court, and therefore presumably impartial.

These two sales were made by a Spaniard residing in Madrid, thru a local agent. He was obviously anxious to liquidate his affairs here, as shown by the circumstance that in two months he disposed of two sizable parcels of real estate. Such disposition and such absence must have given him a natural disadvantage in the bargaining, so that a discount of 10 or 20 per cent was not improbable.

The topographical features of Rato's land do not appear. It probably is agricultural—sold to an agricultural institute. On the other hand, the defendants' hacienda is mostly high ground, rolling hills (p. 206 Record on Appeal) which, subdivided into residential lots, would command higher prices.

Another thing: whereas defendants' land is served by Reparo Street, the Victoneta Inc. lot does not enjoy that advantage (Exhibit 3).

But most significant is the admitted fact that one-third of defendants' land has permanent improvements, made by the U. S. Army, consisting of good paved roads, playgrounds, water system, sewerage and general levelling of the land suitable for residential lots (p. 214 Record on Appeal) together with electric installations and buildings (p. 206 Record on Appeal).

Considering the above circumstances, in relation to the price of P2.50 paid for the Manila Golf Club by J. M. Tuason & Co., we do not feel justified to declare that the price of P1.50 is excessive. Neither is it too low. Two defendants, at least, admitted it was just and reasonable. (p. 274 Record on Appeal).

Wherefore, on the question of just compensation, the trial judge's assessment has to be approved.

Yet there is one point on which defendant's appeal should be heeded. The Government deposited P28,850 and entered the premises by virtue of a court order, under Act No. 2826. The Rural Progress Administration took possession on or about January 25, 1947. Defendants lost the control and use of their property as of that date. Their counsel now claim legal interest on the amount of compensation; and the plaintiff agrees, as it has to. In *Philippines Railway vs. Solon*, 13 Phil., 34 we held that in condemnation proceedings "the owner of the land is entitled to interest, on the amount awarded, from the time the plaintiff takes possession of the property."

Another assignment of error of the defendants is that the lower court failed to make the plaintiff pay the costs. The plaintiff appellee acknowledges this, in view of section 13 Rule 69. The last part of the section is not applicable, because the plaintiff appealed and lost.

Wherefore the decision of the court *a quo* will be affirmed as to the value to be paid by the plaintiff for the

expropriated land. It is of course understood that the money already deposited and taken by defendants should be discounted. Said decision, however, will be modified by awarding interest to defendant at six per cent from January 25, 1947 until the date of payment. Costs will be chargeable to the plaintiff. So ordered.

Parás, C. J., Pablo, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, and Concepcion, JJ., concur.

Judgment affirmed.

[No. L-5942. May 14, 1954.]

REHABILITATION FINANCE CORPORATION, petitioner, *vs.* THE HONORABLE COURT OF APPEALS, ESTELITO MADRID and JESUS ANDUIZA, respondents.

1. OBLIGATION AND CONTRACTS; PROMISSORY NOTE PAYABLE IN INSTALLMENTS.—Where the makers of the promissory note promised to pay the obligation evidenced thereby “on or before October 31, 1951,” although the full amount of said obligation was not demandable prior to October 31, 1951, in view of the provision of the note relative to the payment in ten annual installments, the makers or debtors were entitled to make a complete settlement of the obligation at any time before said date.
2. *Id.*; RIGHT OF CREDITOR.—The Bank, as creditor, has no other right than to exact payment, after which the obligation in question, as regards said creditor, and, hence, the latter’s status and rights as such, become automatically extinguished.
3. *Id.*; PAYMENTS MADE BY THIRD PERSONS.—Under article 1158 of the Civil Code of Spain, which was in force in the Philippines when the payments under consideration were made, “payment may be made by any person, whether he has an interest in the performance of the obligation or not, and whether the payment is known and approved by the debtor or whether he is unaware of it.”
4. *Id.*; *Id.*; PAYMENTS MADE AGAINST WILL OF DEBTOR.—The provision that the payor “may only recover from the debtor insofar as the payment has been beneficial to him,” when made against his express will, is a defense that may be availed of only by the debtor, not by the Bank-creditor, for it affects solely the rights of the former. Besides, in order that the rights of the payor may be subject to said limitation, the debtor must oppose the payments before or at the time the same were made, not subsequently thereto.
5. *Id.*; *Id.*; EFFECTS OF PAYMENT DETERMINED AT THE TIME IT WAS MADE; RIGHTS ACQUIRED BY PAYOR DEPEND UPON LAW.—The effects of payment must be determined at the time it was made and the rights acquired by the payor should not be dependent upon, or subject to modification by, subsequent unilateral acts or omissions of the debtor. The question whether the payments were beneficial or not to the debtor, depends upon the law, not upon his will.

APPEAL from a judgment of the Court of Appeals of June 30, 1952.

The facts are stated in the opinion of the court.

Sixto de la Costa for the petitioner.

Zacarias Gutierrez Lora for the respondent *Jesus de Anduiza*.

Sabido and *Sabido* for the respondent *Estelito Madrid*.

CONCEPCION, J.:

This is an appeal by certiorari, taken by the Rehabilitation Finance Corporation, hereinafter referred to as the Bank, from a decision of the Court of Appeals. The pertinent facts are set forth in said decision, from which we quote:

"On October 31, 1941, *Jesus de Anduiza* and *Quintana Cano* executed the following promissory note—

'P13,800.00 Legaspi, Albay, October 31, 1941

"On or before October 31, 1951 for value received, I/we, jointly and severally, promise to pay the AGRICUTURAL AND INDUSTRIAL BANK, or order, at its office at Manila or Agency at Legaspi, Albay, Philippines, the sum of THIRTEEN THOUSAND EIGHT HUNDRED PESOS (P13,800.00), Philippine currency, with interest at the rate of 6 per centum, per annum, from the date hereof until paid. Payments of the principal and the corresponding interest are to be made in 10 years equal annual installments of P1,874.98 each in accordance with the following schedule of amortizations:

* * * * *

All unpaid installments shall bear interest at the rate of 6 per centum, per annum.

(Sgd.) QUINTANA CANO (Sgd.) JESUS DE ANDUIZA
Mortgagor Mortgagor

(Exhibit "C")

Mortgagors *Anduiza* and *Cano* failed to pay the yearly amortizations that fall due on October 31, 1942 and 1943. As plaintiff *Estelito Madrid*, who was at the outbreak of the last war the manager of the branch office of the National Abaca and other Fiber Corporation in Sorsogon, and who temporarily lived in the house of *Jesus de Anduiza* in said province during the Japanese occupation, learned of the latter's failure to pay the aforesaid amortizations due the creditor Agricultural and Industrial Bank, he went to its central office in Manila in October, 1944, and offered to pay the indebtedness of *Jesus de Anduiza*. Accordingly, he paid on October 23, 1944, P7,374.83 for the principal, and P2,625.17 for the interest, or a total of P10,000.00 (Exhibit 'A'), thereby leaving a balance of P6,425.17 which was likewise paid on October 30th of the same year (Exhibit 'B').

"Alleging that defendant *Jesus de Anduiza* has failed to pay the plaintiff in the amount of P16,425.17 inspite of demands therefor, and that defendant Agricultural and Industrial Bank (now R. F. C.) refused to cancel the mortgage executed by said *Anduiza*, *Estelito Madrid* instituted the present action on July 3, 1948, in the Court of First Instance of Manila, praying for judgment (a) declaring as paid the indebtedness amounting to P16,425.17 of *Jesus de Anduiza* to the Agricultural and Industrial Bank; (b) ordering the Agricultural and Industrial Bank (now R. F. C.) to release the properties mortgaged to it and to execute the corresponding cancellation of the mortgage; (c) condemning defendant *Jesus de Anduiza* to pay plaintiff the amount of P16,425.17, with legal interest from the filing of

the complaint until completely paid, declaring each obligation a preferred lien over Anduiza's properties which plaintiff freed from the mortgage, and sentencing the defendants to pay the plaintiff the sum of P2,000.00 as damages and the costs, without prejudice to conceding him other remedies just and equitable.

"On July 14, 1948, defendant Agricultural and Industrial Bank (now R. F. C.) filed its answer, alleging that the loan of P13,800.00 had not become due and demandable in October, 1944, as the same was payable in ten years at P1,874.98 annually; that up to October 30, 1944, plaintiff delivered the total sum of P16,425.17 to the Agricultural Bank which accepted the same as deposit pending proof of the existence of Jesus de Anduiza's authority and approval which plaintiff promised to present; that it was agreed that if plaintiff could not prove said authority the deposit will be annulled; and that the Agricultural and Industrial Bank and its successor the Rehabilitation Finance Corporation cannot release the properties mortgaged because defendant Anduiza refused to approve, authorize or recognize said deposit made by plaintiff. It is further averred, as special defense, that the amount of P16,425.17, in view of the refusal of defendant Jesus de Anduiza to approve and authorize same for payment of his loan, was declared null and void by Executive Order No. 49 of June 6, 1945; that on June 4, 1948, defendant Anduiza personally came to the office of the Rehabilitation Finance Corporation, apprising it that he did not authorize the plaintiff to pay for his loan with the Agricultural and Industrial Bank; and that on June 4, 1948, he paid the sum of P2,000.00 on account of his loan and interest in arrears. Defendant Agricultural and Industrial Bank (now R. F. C.) therefore prayed (1) to dismiss the complaint and to declare plaintiff's deposit in the sum of P16,425.17 null and void in accordance with the provisions of Executive Order No. 49, series of 1945; (2) to concede to defendant Agricultural and Industrial Bank such other legal remedies which may be justified in the premises; and (3) to order plaintiff to pay the costs.

"Defendant Jesus de Anduiza filed his answer on August 9, 1948, with special defenses and counterclaim, alleging that when plaintiff paid the total amount of P16,425.17 to the Agricultural and Industrial Bank his indebtedness thereto was not yet due and demandable; that the payment was made without his knowledge and consent; that the Agricultural and Industrial Bank did not accept the amount of P16,425.17 from Estelito Madrid as payment of his loan but as mere deposit to be applied later as payment in the event he would approve the same; that said deposit was declared null and void by Executive Order No. 49 of June 6, 1945; that on June 4, 1948, he personally informed the officials of the Rehabilitation Finance Corporation that he did not authorize the plaintiff to pay the Agricultural and Industrial Bank for his loan; and that on the same date he paid the corporation the sum of P2,000.00 on account of his loan and the interest in arrears.

"On June 20, 1949, the trial court rendered in favor of the plaintiff a judgment which was set aside later on upon motion of counsel for the Rehabilitation Finance Corporation on June 28th, in which it was alleged that his failure to appear at the hearing on June 9, 1949, was due to a misunderstanding. Consequently, and after defendant corporation had introduced its evidence, the court on August 11, 1949, rendered decision dismissing plaintiff's complaint without pronouncement as to costs.

"On or about September 7, 1949, defendant Jesus de Anduiza filed an amended answer which the trial court, upon considering the same as well as his co-defendant's opposition thereto, denied its admission on September 20, 1949. The motion for new trial filed by defendant

Anduiza and plaintiff Estelito Madrid was likewise denied for lack of merit on the same date, September 20th. Consequently, plaintiff Estelito Madrid and defendant Jesus de Anduiza brought this case to this Court by way of appeal, * * *." (Pp. 1-6, Decision, C. A.)

Upon the foregoing facts, the Court of Appeals rendered the aforementioned decision, the dispositive part of which reads as follows:

"Wherefore, the judgment appealed from is hereby reversed, directing the Rehabilitation Finance Corporation, successor in interest of the Agricultural and Industrial Bank, to cancel the mortgage executed by Jesus de Anduiza and Quintana Cano in favor of said bank; and ordering Jesus de Anduiza to pay plaintiff Estelito Madrid the amount of P16,425.17, without pronouncement as to costs." (Pp. 17-18, *idem*.)

The Bank assails said decision of the Court of Appeals upon the ground that payments by respondent Estelito Madrid had been made against the express will of Anduiza and over the objection of the Bank; that the latter accepted said payments, subject to the condition that a written instrument, signed by Anduiza, authorizing the same, would be submitted by Madrid, who has not done so; that the payments in question were made by Madrid in the name of Anduiza and, therefore, through misrepresentation and without good faith; that said payments were not beneficial to Anduiza; and that the obligation in question was not fully due and demandable at the time of the payments aforementioned.

At the outset, it should be noted that the makers of the promissory note quoted above promised to pay the obligation evidenced thereby "on or before October 31, 1951." Although the full amount of said obligation was not demandable prior to October 31, 1951, in view of the provision of the note relative to the payment in ten (10) annual installments, it is clear, therefore, that the makers or debtors were entitled to make a complete settlement of the obligation at any time *before* said date.

With reference to the other arguments of petitioner herein, Article 1158 of the Civil Code of Spain, which was in force in the Philippines at the time of the payments under consideration and of the institution of the present case (July 3, 1948), reads:

"Payment may be made by any person, whether he has an interest in the performance of the obligation or not, and whether the payment is known and approved by the debtor or whether he is unaware of it.

"One who makes a payment for the account of another may recover from debtor the amount of the payment, unless it was made against his express will.

"In the latter case he can recover from the debtor only in so far as the payment has been beneficial to him."

It is clear therefrom, that respondent Madrid was entitled to pay the obligation of Anduiza irrespective of

the latter's will or that of the Bank, and even over the objection of either or both. Commenting on said Article 1158, Manresa says:

"Sí es amplio el principio declarado en el artu 1158 por razón de las personas a que se extiende, no lo es menos por la ausencia de restricciones basadas en la voluntad del deudor. La primera parte de dicho artículo parece limitar la posibilidad del pago por un tercero a los casos en que el deudor conozca y apruebe tal hecho o lo ignore. Pero los dos párrafos siguientes extienden tal posibilidad al caso en que el deudor desapruébe el pago y *aun se oponga* a que lo verifiquen, puesto que determinando la ley los efectos, si bien parciales, limitados, que un pago hecho en tales condiciones puede producir contra el mismo deudor *que a el se opuso*, es claro que al atribuirle tales efectos le atribuye plena eficacia respecto del acreedor, *que no está autorizado para hacer oposición alguna*.

"Menos duda aún puede ofrecer la validez del pago, conociéndolo el deudor y omitiendo expresar su conformidad; hipótesis menos extrema que la anterior, y en cual puede verse incluso una aprobación tácita, aprobación que autoriza, incluso la subrogación misma del tercero, según veremos al hablar de la novación.

"Tenemos, por tanto, que sea cual fuere la situación en que esté o se coloque el deudor respecto del pago hecho por un tercero, no impide a éste verificarlo con eficacia respecto del acreedor, y aun también respecto de aquél mismo, según se expresa luego.

"La jurisprudencia, confirmando el sentido de la ley, ha venido a declarar también que no es necesario para el pago el concurso del deudor; así vienen a establecerlo la sentencia de 4 de Noviembre de 1897, que ratifica los preceptos contenidos en el art. 1158 y en el siguiente, y la de 5 de Abril de 1913, declarativa de que, siendo el pago de una deuda el medio más directo de extinguir la obligación, acto que mejora la situación del prestatario, puede realizarlo cualquiera *aun contradiciéndolo o ignorándolo aquél*. En la jurisprudencia hipotecaria hay una resolución de la Dirección general de los Registros de 22 de Marzo de 1893, muy explícita e importante, en la cual se declara respecto de esta cuestión que 'el pago es un acto jurídico tan *independiente del deudor*, que puede ser firme y valedero hecho por tercera persona que no tenga interés en la obligación, y aun cuando el deudor lo ignore totalmente, según el artículo 1158 del Código civil'; que 'de ese principio legal se deduce que no cabe reputar nulo el pago de una obligación porque falta el consentimiento del deudor, ni menos estimar nula la escritura en que el pago conste, por carecer de la firma de éste'; que 'en ese modo de extinguirse las obligaciones, lo verdaderamente capital es la voluntad del acreedor, y así lo ha entendido el artículo 82 de la ley Hipotecaria, al no exigir para la cancelación de las hipotecas más que el consentimiento de aquel en cuyo favor se hallen constituídas'; y por último, que 'aunque el art. 27 de la ley del Notariado exige bajo pena de nulidad que se firmen las escrituras, se refiere a los que en ellas intervienen en calidad de otorgantes, denominación que en los actos unilaterales cuadra tan sólo al que en virtud de los mismos queda obligado'.

"No ha sido menos explícita y fundada la jurisprudencia en cuanto a declarar que *tampoco el acreedor puede impedir válidamente el pago hecho por un tercero*, declarándose en la sentencia de 4 de Noviembre de 1897, a que antes se hizo referencia, que ni estos preceptos que comentamos, ni los demás de esta sección o de otros lugares del Código, aplicables a la materia, 'ni el art. 1161 de la ley Procesal, requieren el consentimiento del acreedor para la eficacia del pago y para la consiguiente subrogación, *porque su derecho, que no va más allá del cumplimiento de las obligaciones, se acaba o extingue*

con el pago'. Pudiera creerse que la doctrina de dicha sentencia era opuesta a la de la Dirección, que antes hemos transcrito, y que ésta reconocía la facultad del acreedor para consentir o impedir el pago; pero *lejos de ser así* no hay contradicción, limitándose dicho Centro directivo a exponer el evidente requisito de que para los efectos del registro no pueden considerarse extinguidos los derechos del acreedor sin que éste intervenga en el pago; pero *esto no excluye que se le pueda imponer la admisión de éste contra su voluntad*." (8 Manresa, 4th ed., pp. 242-243; *Italics supplied*.)

This is in line with the view of Mucius Scaevola, which is as follows:

"En efecto; *el unico derecho del acreedor en las obligaciones es el de que se le pague*. No puede, por lo tanto, oponerse a que la obligación le sea cumplida por una persona distinta del deudor. Por otra parte, el deudor queda libre de su compromiso desde el momento en que el credito esta satisfecho, puesto que, a partir de entonces, nada se debe. Podran, pues, discutirse los efectos del pago hecho por una tercera persona en cuanto a la relación que de esto se deduzca para lo sucesivo *entre el tercero y el deudor*; pero negar que la deuda quede liberada, desatado el vinculo, perdida en el acreedor la facultad de reclamar e insubsistente sobre el deudor el pes de su compromiso, seria de todo punto temerario.

"Lo presumible es que tenga interes en el cumplimiento de la obligación quien trata de sustituirse al deudor en el pago; es natural la defensa de los intereses propios, y poco corriente y poco acostumbrado que, por pura generosidad, se satisfaga la deuda de otro sin algun beneficio por parte del que de esta manera procede. En este sentido, el fiador, que es, si no un deudor principal, deudor al fin, puesto que ha enlazado sus intereses, con su cuenta y razón, a los de la persona obligada, y se ha comprometido subsidiariamente con ella al pago de lo que se debía, se adelantará muchas veces, por distintos motivos, á pagar la deuda, teniendo en ello propio y legitimo beneficio. Aparte del interés jurídico, motivos particulares de otro orden, que implican un genero cualquiera de provecho, pueden mover también el animo de una tercera persona para sustituirse en el lugar del deudor.

"Pero ni siquiera se necesita que esto suceda. *Las doctrinas juridicas han permitido que haga el pago cualquiera persona*, tenga o no interes en el cumplimiento de la obligación, segun expresamente determina el art. 1158 del Código. Es de suponer el interes, naturalmente, por lo que decimos mas arriba; pero la ley se reconoce sin facultades para entrar en este terreno, y obediendo a las meras consideraciones juridicas de la satisfaccion del compromiso por la entrega de la cosa o prestacion del hecho y de la liberacion consiguiente del deudor, prescinde del genero de motivos interesados o desinteresados, incluso de mera liberalidad, que hayan podido producir la determinacion de la tercera persona que ofrece al acreedor la realizacion del compromiso.

"Y no para en esto; sino que el mismo artículo 1158 establece que podra hacer el pago cualquiera persona, ya lo conozca ó lo apruebe, ya lo ignore el deudor. Anticipandose, ademas, a la pregunta de lo que sucedera en el caso de que el deudor lo conozca y no lo apruebe, añade a continuación que el que pague por cuenta de otro podra reclamar del deudor lo que hubiese pagado, a no haberlo hecho contra su expresa voluntad. Es lo que se decia en la ya citada *ley de Partidas*: 'aunque el deudor lo supiese y lo contradijese'.

"Ahora bien; en algún caso de éstos, podra el acreedor negarse a recibir la deuda? *Ya hemos dicho que no*. Su derecho se reduce en todo caso á pedir y á recibir lo que se le debe. Es indiferente

para el la cualidad de la persona que llega ' su presencia, poniendo en sus manos el hecho o la cosa que son debidas. Habra ocaciones en que, por motivos de indole particular, el acreedor se sienta contrariado en recibir la prestación de un tercero. El prestamista, por ejemplo, que crea haberse asegurado el disfrute perpetuo de las rentas de su deudor, se vera amargamente sorprendido con el pago hecho por un tercero, que da al traste de esta manera en un segundo con las risueñas esperanzas de toda la vida. Motivos de este orden, y tambien otras veces algunos más elevados, impulsaran al acreedor a resistir el pago de lo que se le debe. Sin embargo, el derecho no ha pedido tomar en cuenta ninguna de tales consideraciones, con las que se iria en definitiva contra el principio de haber de aceptarse todo aquello que resulte favorable para el deudor. Por lo tanto, en caso de resistencia, el tercero que ofrece el pago tendrá derecho a consignar la cosa debida como si fuese el deudor mismo, dando á la consignación cuantos efectos le estan asignados por la ley." (19 Scaevola, pp. 881-883; italics supplied.)

The opinion of Sanchez Roman is couched in the following language:

"Los terceros extraños a la obligación pueden pagar, ignorandolo el deudor, sabiendolo y no contradiciendolo *o sabiendolo y contradiciendolo*. En el primer caso existe una gestion de negocios; en el segundo, un mandato tacito; y en el tercero, se produce una cesion de credito, * * *."

* * * * *

"En el caso de pago hecho por un tercero, el acreedor *no* puede negarse a recibirlo, y cualquiera resistencia le constituira en la responsabilidad de la mora *accipiendi*. Ciertamente que esta no es regla expresa de ley ni de jurisprudencia, pero es buena doctrina de Derecho cientifico, generalizada entre los escritores, y de la cual dice Goyena, con razon: La ley no puede permitir que el acreedor se obstine maliciosamente en conservar la facultad de atormentar a su deudor, que un hijo no pueda extinguir la obligación de su padre, ni este la de su hijo o su amigo, o un hombre benefico la de un desgraciado ausente. Y no se diga que el tercero no tiene mas que entregar el dinero al deudor para que haga directamente el pago; pues en el caso de ausencia esto es imposible, y en otras ocasiones la delicadeza frustraria las miras del hombre bienhechor." (4 Sanchez Roman, 259-260; (Italics supplied.)

It may not be amiss to add that, contrary to petitioner's pretense, the payments in question were not made against the objection either of Anduiza or of the Bank. And although, *later on*, the former questioned the validity of the payments, subsequently, he impliedly, but clearly, acquiesced therein, for he joined Madrid in his appeal from the decision of the Court of First Instance of Manila, referred to above. Similarly, the receipts issued by the Bank acknowledging said payments without qualification, belie its alleged objection thereto. The Bank merely demanded a signed statement of Anduiza sanctioning said payments, as a condition precedent, not to its acceptance, which had already been made, but to the execution of the deed of cancellation of the mortgage constituted in favor of said institution.

Needless to say, this condition was null and void, for, as pointed out above, the Bank, as creditor, had no other

right than to exact payment, after which the obligation in question, as regards said creditor, and, hence, the latter's status and rights as such, become automatically extinguished.

Two other consequences flow from the foregoing, namely:

(1) The good or bad faith of the payor is immaterial to the issue before us. Besides, the exercise of a right, vested by law without any qualification, can hardly be legally considered as tainted with bad faith. Again, according to Sanchez Roman "para que el pago hecho por el tercero extinga la obligacion, *es preciso que se realice a nombre del deudor.*" (4 Sanchez Roman, 260.) Accordingly, the circumstance that payment by Madrid had been effected in the name of Anduiza, upon which the Bank relies in support of its aforesaid allegation of bad faith, does not prove the existence of the latter.

(2) The Bank can not invoke the provision that the payor "may only recover from the debtor insofar as the payment has been beneficial to him," when made against his express will. This is a defense that may be availed of by the debtor, not by the Bank, for it affects solely the rights of the former. At any rate, in order that the rights of the payor may be subject to said limitation, the debtor must oppose the payments before or at the time the same were made, not subsequently thereto.

"Entendemos como evidente, que los preceptos del art. 1158 que comentamos, y las distintas hipótesis que establece, giran sobre la base de que la oposición del deudor al pago ha de mostrarse con anterioridad a la realización de éste pues de ser aquella posterior, no cabe estimar verdadera y eficaz oposición de buena fe, ya que en el caso de que antes hubiera conocido el proyecto de pago, habría en su silencio una aprobación tácita que autorizaría incluso la subrogación del tercero, y si lo había ignorado antes de realizarse, se estaría en la situación distinta prevista y regulada en los dos primeros párrafos del artículo 1158 y en el 1159." (8 Manresa, 4th ed., pp. 248-249.)

Indeed, it is only fair that the effects of said payment be determined at the time it was made, and that the rights then acquired by the payor be not dependent upon, or subject to modification by, subsequent unilateral acts or omissions of the debtor. At any rate, the theory that Anduiza had not been benefited by the payments in question is predicated solely upon his original refusal to acknowledge the validity of said payments. Obviously, however, the question whether the same were beneficial or not to Anduiza, depends upon the law, not upon his will. Moreover, if his former animosity towards Madrid sufficed to negate the beneficial effects of the payments under consideration, the subsequent change of front of Anduiza, would constitute an admission and proof of said beneficial effects.

Being in conformity with law, the decision appealed from is hereby affirmed, therefore, *in toto*.

Parás, C. J., Pablo, Bengzon, Montemayor, Reyes, Jugo, and Bautista Angelo, JJ., concur.

Padilla and Labrador, JJ., did not take part.

Judgment affirmed.

[No. L-6792. May 14, 1954]

FAUSTO D. LAQUIAN, plaintiff and appellant, *vs.* FILOMENA SOCCO, ET AL., defendants and appellees

1. PLEADING AND PRACTICE; ACTIONS; IMPROPER VENUE.—Where the purpose of the suit is to have a judicial declaration of a state of co-ownership, the action can not be considered as one of partition which can be brought in any province where some of the properties to be partitioned are located. Obviously, the Court of First Instance of Bataan acquired no jurisdiction over the action where the real property therein involved is situated in the City of Manila.
2. ID.; ID.; DISMISSAL OF ACTIONS.—If the court admits plaintiff's allegation that the disputed lots were held in tenancy by the deceased spouses, so that the preferential right to purchase the same from the Government passed to the heirs of both of them, the court should not have dismissed the complaint but instead rendered judgment granting plaintiff's prayer.

APPEAL from an order of the Court of First Instance of Bataan. Bayona, *J.*

The facts are stated in the opinion of the court.

The appellant for his own behalf.

Rivas, Socco and Songalia for appellee F. Socco.

Vicente S. Ocol for the defendant and appellee Director of Lands.

REYES, *J.*:

The spouses Marcelo Laquian and Constanica Socco died without issue and their respective estates are now under judicial administration in Special Proceedings Nos. 1941 and 2110 of the Court of First Instance of Bataan.

On October 16, 1951 Fausto D. Laquian, in his capacity as administrator of the estate of Marcelo Laquian, filed a complaint in that court against Filomena Socco, in her capacity as administratrix of the estate of Constanica Socco, and the Director of Lands as successor to the defunct Rural Progress Administration, setting up two causes of action. The first cause of action referred to a house and lot in the City of Manila, registered in the name of the deceased Constanica Socco alone but alleged to belong in reality to herself and her deceased husband Marcelo Laquian, for which reason it was prayed that

the property be declared conjugal and one-half thereof adjudged to the heirs of Marcelo Laquian and the other half to those of Constancia Socco. For a second cause of action, the complaint alleged that the aforementioned deceased spouses were in their lifetime the bona fide occupants and tenants of various lots of the Dinalupihan Estate, among them the six lots specifically described in the complaint, and as such bona fide occupants and tenants had the preferential right to purchase the said six lots from the Rural Progress Administration or its successor, the Director of Lands, but that the defendant Filomena Socco, as administratrix of the deceased Constancia Socco, claims that the said six lots were exclusively occupied and possessed as bona fide lessee by the said deceased and the preferential right to purchase them from the Government passed, upon her death, to her own heirs so that her husband's heirs could claim no participation therein. Plaintiff, therefore, prayed that the deceased spouses Marcelo Laquian and Constancia Socco be declared to have been the bona fide occupants and tenants of the lots in question and their preferential right to purchase the same to have been inherited by their respective heirs.

The Director of Lands answered the complaint, setting up a counterclaim against the estate of Marcelo Laquian for a sum of money representing unpaid rents for certain lots of the Dinalupihan Estate leased to the said deceased; but plaintiff having replied alleging that the said claim had already been settled, the court rendered an order providing for the deposit of the disputed portion of the said claim with the clerk of court.

Defendant, on her part, filed a motion for dismissal on the grounds that venue was improperly laid as to the first cause of action, and that as to the second cause of action, the complaint stated no cause. The lower court upheld both grounds and rendered an order dismissing the complaint. And reconsideration of this order having been denied, plaintiff has appealed to this court, raising purely questions of law. The defendant Director of Lands does not appear to have taken any interest in the appeal one way or the other.

The appeal involves two legal questions. One is whether venue was properly laid as to the first cause of action and the other is whether the lower court was justified in dismissing the second cause of action in view of the allegation in defendant's motion to dismiss that there was no issue between her and plaintiff because she had never claimed that the deceased Constancia Socco "was the exclusive bona fide tenant of the six lots mentioned in the complaint."

With reference to the first question, it is obvious that the Court of First Instance of Bataan had no jurisdiction over the same, because the real property therein involve is situated in the City of Manila, and section 3 of Rule 5 provides that "actions affecting title to, or for recovery of possession, or for partition or condemnation of, or foreclosure of mortgage on, real property, shall be commenced and tried in the province where the property or any part thereof lies." The contention that the present action is one for partition and may therefore be brought in any province where some of the properties to be partitioned are located, is untenable because there is as yet nothing to be partitioned and there will be none until a state of co-ownership has been judicially declared, which appears to be the purpose of the suit. This is specially true with respect to the second cause of action which seeks recognition of a joint participation in a mere option to purchase real estate.

The lower court dismissed the second cause of action on the theory that as the deceased spouses had a common interest in the lots in Bataan the administratrix of the spouse Filomena Socco should have been made co-plaintiff instead of defendant. If the statement to this effect in said defendant's motion to dismiss was taken by the court as an admission of plaintiff's allegation that those lots were held in tenancy not by Constancia Socco alone but by both herself and her husband so that the preferential right to purchase the same from the Government passed to the heirs of both of them, then what the lower court should have done was to render judgment granting the prayer in the second cause of action and not to dismiss the complaint.

In view of the foregoing, the order of dismissal is affirmed as to the first cause of action but revoked with respect to the second cause of action, as to which the case is ordered remanded to the lower court for further proceedings. With costs against the appellee.

Pablo, Bengzon, Montemayor, Jugo, Bautista Angelo, Labrador, and Concepcion, JJ., concur.

Parás, C. J., and Padilla, J., did not take part.

Order affirmed

[No. L-6921. May 14, 1954]

EUGENIO CATILO, petitioner, *vs.* HONORABLE GAVINO S. ABAYA, Judge of the Court of First Instance of Batangas, respondent.

1. CRIMINAL PROCEDURE; POWER OF COURT TO MODIFY JUDGMENT.—

The inherent powers of a court to modify its order or decision, under section 5, Rule 124 of the Rules of Court, does not extend

to an order of dismissal which amounts to a judgment of acquittal in a criminal case; and the power of a court to modify a judgment or set it aside before it has become final or an appeal has been perfected, under section 7, Rule 116 of the Rules of Court, refers to a judgment of conviction and does not and cannot include a judgment of acquittal.

2. *Id.*; ORDER OF DISMISSAL AMOUNTING TO ACQUITTAL BARS SUBSEQUENT PROSECUTION FOR SAME OFFENSE.—Where the case was dismissed on the ground of lack of sufficient evidence and the respondent Judge himself advised the accused in open court that he was a free man and could not be again prosecuted for the same offense, the reconsideration of the order of dismissal and the reinstatement of the case would place the defendant in double jeopardy.

ORIGINAL ACTION in the Supreme Court. Certiorari with Prohibition.

The facts are stated in the opinion of the court.

Remigio L. Perez for the petitioner.

First Assistant Provincial Fiscal Geminiano G. Beloso for the respondent.

MONTEMAYOR, J.:

This is a petition for certiorari with prohibition filed by petitioner Eugenio Catilo against respondent Hon. Gavino S. Abaya as Judge of the Court of First Instance of Batangas. The facts involved are not disputed.

Petitioner, a member of the Philippine Army attached to the 21st BCT was charged in the Court of First Instance of Batangas presided over by respondent Judge with kidnapping with murder in Criminal Case No. 698 of that Court. He was arraigned and the case was tried on July 15, 1953. After the prosecution had closed its evidence and rested its case, counsel for the defendant moved for the dismissal of the case on the ground of lack of sufficient evidence. After a thorough discussion of the motion for dismissal the respondent Judge in open court dictated his order of July 15, 1953 (Annex "A") which we reproduce below:

"ORDER

After the presentation of the evidence for the prosecution and after the Fiscal has submitted his case, Atty. Remigio Perez of the defense presented a motion to dismiss based on the insufficiency of the evidence presented by the prosecution. This motion to dismiss was fully discussed and forthwith the Court believes and so holds that said motion to dismiss is well taken because even if it cannot be discussed that there is a dead person and that this dead person was found before in company with the accused and his companions, there has not been presented in the presentation of evidence by the Fiscal even any slight proof that the herein accused was the author of the death in question and that the case against the accused herein is hereby dismissed with costs.

Dictated and promulgated in open court. So ordered.

Batangas, Batangas, July 15, 1953.

GAVINO S. ABAYA
Judge"

According to the allegation of the petition which is not denied by the respondent in his answer but instead admitted by him, after dictating the aforequoted order, respondent had the defendant stand up, and then and there, the order of dismissal was duly promulgated in open court, and then addressing the accused, respondent Judge told him that he was a free man and could not again be prosecuted for the offense charged in the information. Then the court's session was adjourned.

It would appear, however, that on the same day the respondent Judge changed his mind about his order of dismissal and issued the following order:

"ORDER

The Court, *motu proprio*, and due to some misrepresentation of facts, reconsiders its ruling given verbally this morning, dismissing the present case; and

Acting on the petition of the defense counsel for continuance of the trial of this case, the 27th day of this month is hereby set for the presentation of the evidence of the accused. So ordered.

Batangas, Batangas, July 15, 1953.

GAVINO S. ABAYA
Judge"

The second paragraph of the aforequoted order presumably refers to a previous petition for continuance filed by the defense before the trial of the case but which petition was denied, after which, trial proceeded.

The defense received on July 17, 1953, a copy of the second order reconsidering the order of dismissal, and on July 20th it filed a written objection protesting against the reconsideration of the order of dismissal and the reinstatement of the case, on the ground that the defendant was being placed in double jeopardy. Failing to take action upon said objection, counsel for the defendant-petitioner filed a motion respectfully asking the respondent Judge to take immediate and favorable action on the written objection, and because the respondent still failed to take action, the defendant filed the present petition.

In representation of the respondent, the Provincial Fiscal in his answer claims that the respondent has the inherent power under the law to set aside his order of dismissal Annex "A"; that said order of dismissal is a conclusion of the court and does not contain the "kind of recitation of facts contemplated in our courts of justice by the Rules of Court"; that in issuing the order of dismissal Annex "A", the trial court abused its discretion as shown by the fact that later respondent being convinced that the prosecution has established a case against the accused, *motu proprio* set aside the order of dismissal; and that finally, since the court abused its discretion, said order of dismissal is void; consequently, double jeopardy does not attach.

From whatever angle we may view the order of dismissal Annex "A", the only conclusion possible is that it amounted to an acquittal. Whether said acquittal was due to some "misrepresentation of facts" as stated in the order of reconsideration, which alleged misrepresentation is vigorously denied by the defendant-petitioner, or to a misapprehension of the law or of the evidence presented by the prosecution, the fact is that it was a valid order or judgment of acquittal, and thereafter the respondent Judge himself advised the accused in open court that he was a free man and could not again be prosecuted for the same offense.

The inherent powers of a court to modify its order or decision, under section 5, Rule 124 of the Rules of Court claimed for the respondent to set aside his order of dismissal, does not extend to an order of dismissal which amounts to a judgment of acquittal in a criminal case; and the power of a court to modify a judgment or set it aside before it has become final or an appeal has been perfected, under section 7, Rule 116 of the Rules of Court, refers to a judgment of conviction and does not and cannot include a judgment of acquittal.

In conclusion, we hold that to continue the criminal case against the petitioner after he had already been acquitted would be putting him twice in jeopardy of punishment for the same offense. Therefore, the petition for certiorari with prohibition is hereby granted and the order of respondent reconsidering his order of dismissal Annex "A" is hereby set aside and he is hereby commanded to desist from further proceeding with the trial of criminal case No. 698, which case is now to be regarded as closed. No pronouncement as to costs.

Parás, C. J., Pablo, Bengzon, Reyes, Jugo, Bautista Angelo, Labrador, and Concepcion, JJ. concur.

Padilla, J., did not take part.

Petition granted.

[No L-7045. May 18, 1954]

BENIGNO C. GUTIERREZ, plaintiff and appellant, *vs.* LAUREANO JOSE RUIZ, ET AL., defendants and appellees

1. MUNICIPAL COURTS; ORIGINAL JURISDICTION OVER CIVIL CASES.—

Under the Revised Charter of the City of Manila, the Municipal Court of Manila has the same jurisdiction as justice of the peace courts under Republic Act No. 296. Where the amount of the demand, exclusive of, and in addition to, interest and costs, aggregated P2,700, the Municipal Court of Manila had no jurisdiction to decide the case on the merits.

2. ID.; DECISIONS; APPEAL TO COURTS OF FIRST INSTANCE; JURISDICTION OF COURTS OF FIRST INSTANCE ON APPEAL.—Granting that the appeal from the decision of the Municipal Court of Manila has been seasonably perfected, the Court of First

Instance, in such case, has no authority except to dismiss the case for want of jurisdiction of the municipal court, for which reason it could not have exercised appellate jurisdiction. Neither could it exercise original jurisdiction inasmuch as the legality of the decision of the Municipal Court of Manila had been impugned by the plaintiff and any decision of the court of first instance sustaining the legality of that of the municipal court, would have been, therefore, as null and void as that of the latter, for lack of jurisdiction.

APPEAL from a judgment of the Court of First Instance of Manila. Encarnacion, J.

The facts are stated in the opinion of the court.

Mario Bengzon for the plaintiff and appellant.

Jorge A. Pascua for the defendant and appellee.

Assistant Fiscal Eulogio S. Serrano for the respondent Judge.

CONCEPCION, J.:

On or about September 14, 1950, Laureano Jose Ruiz instituted, in the Municipal Court of Manila, civil case No. 13038 of said court, against Benigno C. Gutierrez. In the complaint, Ruiz prayed for judgment:

"(a) Sentencing the defendant to pay to the plaintiff the sum of P2,000, the full amount of the aforequoted promissory note, together with legal interest thereon from March 1, 1950, the date of extra-judicial demand, until fully paid, the same corresponding to the purchase price of the land above-described which should be paid even if the suspensive condition for the payment of the said promissory note is not deemed fulfilled by reason of the alleged facts in paragraph 5 hereof;

"(b) sentencing the defendant to pay to the plaintiff the amount of P700 as consequential damages and the costs of this suit; and

"(c) granting unto the plaintiff such general relief which this Court may deem just and equitable under the above premises." (pp. 3 and 4, Exhibit A.)

On October 20, 1950, decision was rendered by said court, presided over by Honorable Guillermo Cabrera, Judge, reading:

"Upon this case being called for hearing this morning, at 10:10 o'clock, the plaintiff appeared by his attorney. The defendant did not show up, notwithstanding the fact that according to the records of the case, he was duly notified of said hearing, and, upon the application of plaintiff's attorney, said defendant was declared in default.

"On the oral and documentary evidence adduced by the plaintiff in support of the complaint, judgment is hereby rendered for the plaintiff and against the defendant by default, ordering the latter to pay the plaintiff the sum of P2,000, together with legal interest thereon from March 1, 1950 until fully paid, plus the sum of P700 by way of damages, and besides the costs of this suit." (Exhibit B.)

On appeal to the Court of First Instance of Manila—where the case was docketed as civil case No. 12719 of said court—Gutierrez assailed the validity of said deci-

sion, upon the ground that the amount involved in the litigation exceeds the jurisdiction of the municipal court, but this pretense was not sustained by the court of first instance, which "declared that the decision of the municipal court in said case No. 13038 had already become final and executory," as alleged in paragraph (4) of the amended complaint of Gutierrez in civil case No. 13614 of the Court of First Instance of Manila—to which we shall presently refer—and *admitted* by Ruiz in paragraph (2) of his answer in the same case. Thereafter, Ruiz petitioned for a writ of execution, which was issued by Judge Cabrera and which the Sheriff of Manila sought to enforce, by levying upon several properties of Gutierrez. Hence, on April 6, 1951, the latter commenced in the Court of First Instance of Manila said civil case No. 13614 thereof, against Ruiz, Judge Cabrera and the Sheriff of Manila. On April 10, 1951, said court issued a writ of preliminary injunction, enjoining the defendants from executing the decision of the Municipal Court in civil case No. 13038. In his amended complaint, dated April 14, 1951, Gutierrez prayed the Court of First Instance of Manila, in said case No. 13614,

"1. To render judgment declaring the judgment of the Municipal Court of the City of Manila, in said Civil Case No. 13038, null and void in that the Municipal Court of the City of Manila does not have jurisdiction over the subject matter of the action;

"2. To render judgment for damages in the amount of Five thousand pesos (P5,000) against the defendants Laureano Jose Ruiz, Guillermo Cabrera, jointly and severally.

"3. To render judgment against the Sheriff of the City of Manila in the amount of Ten thousand pesos (P10,000), plus the amount of One hundred pesos (P100) every day from and after April 10, 1954, as damages suffered by the plaintiff herein for the unwarranted and uncalled for refusal of said defendant Sheriff of the City of Manila to obey the writ of preliminary injunction issued in the above entitled case; plaintiff also further prays for costs and for any other relief as this Court may deem just and equitable." (Pp. 6 and 7, Record on Appeal.)

In due course, the court of first instance, presided over by Honorable Demetrio Encarnacion, Judge, rendered a decision in said case No. 13614, the pertinent parts of which read:

"En síntesis, se trata de conseguir un remedio de este juzgado para anular lo actuado por el Juzgado Municipal, presidido entonces por el Hon. Guillermo Cabrera, bajo el fundamento de que la decisión en aquella causa se dictó sin jurisdicción ordinaria bajo la Ley Judicial No. 296 de la República de Filipinas. Según la parte demandante, la jurisdicción del Juzgado Municipal llegaba solamente a P2,000.00 en asuntos civiles, pero habiendose pedido en la misma demanda P700.00 de daños, además de la cantidad principal y costas, se contiene en la demanda que la acción estaba fuera de la jurisdicción y competencia de dicho Juzgado Municipal. El Juez Cabrera desatendió esta cuestión de jurisdicción y dictó sentencia condenando al demandado, Benigno C. Gutierrez, hoy recurrente en esta acción. Como consta en autos, una vez dictada

la sentencia por el Juzgado Municipal el 20 de Octubre de 1950, tal decisión fue apelada por el demandado ante este Juzgado, pero en apelación este Juzgado superior desestimo la cuestión planteada sobre la falta de jurisdicción del Juzgado Municipal en la causa civil No. 12719, sosteniendo la legalidad de la decisión del Juzgado Municipal antedicha y hasta su jurisdicción. Y esta decisión del Juzgado de Primera Instancia de Manila quedo firme.

"Con vista de estos datos, el Juzgado entiende y así opina, que la presente acción carece de base habiendo quedado firme la decisión del Juzgado de Primera Instancia en la causa civil No. 12719, arriba mencionada, dicho se esta que esta acción es insostenible. Seria multiplicar litigios y repetir los mismos a pesar de haber pasado al estado de cosa juzgada, como es así el presente litigio. Además, sin necesidad de tocar la cuestión vital, este Juzgado es de opinión que la adición de P700.00 de daños a la suma principal reclamada en la demanda, no afectaba ni podria afectar la jurisdicción y competencia del Juzgado Municipal, porque los daños son accesorios y contingentes y no determinan la jurisdicción de un juzgado.

"Por todo lo expuesto, el Juzgado ordena el sobresimiento de la presente causa, con costas al demandante." (Record on Appeal, pp. 25-26.)

Said case No. 13614 is now before us as case G. R. No. L-7045, on appeal taken by Gutierrez from said decision of Judge Encarnacion.

The first question for determination by this Court is whether or not the municipal court had jurisdiction over the subject matter of case No. 13038. The pertinent portions of sections 44 and 88 of Republic Act No. 296, otherwise known as the Judiciary Act of 1948, are quoted hereunder:

"SEC. 44. *Original jurisdiction.*—Courts of First Instance shall have original jurisdiction:

* * * * *

"(c) In all cases in which the demand, exclusive of interest, or the value of the property in controversy, amounts to more than two thousand pesos;"

* * * * *

"SEC. 88 * * * In all civil actions, including those mentioned in Rules 59 and 62 of the Rules of Court, arising in his municipality or city, and not exclusively cognizable by the Court of First Instance, the justice of the peace and the judge of a municipal court shall have exclusive original jurisdiction where the value of the subject-matter or amount of the demand does not exceed two thousand pesos, exclusive of interest and costs. * * *

Referring, particularly, to the Municipal Court of Manila, section 39 of Republic Act No. 409, which is the Revised Charter of the City of Manila, declares, that:

"The municipal court shall have the same jurisdiction in civil and criminal cases and the same incidental powers as at present conferred by law upon the justice of the peace courts except those in conflict with the provisions of this Charter and such additional jurisdiction and powers as may be conferred upon it by this Charter or by special law. * * *." (2nd par., Sec. 39.)

Pursuant to these provisions, the Municipal Court of Manila has the same jurisdiction as justice of the peace courts under Republic Act No. 296. The latter's original jurisdiction, as regards civil cases capable of pecuniary estimation, is limited to those in which "the value of the subject-matter or amount of the demand does not exceed two thousand pesos, exclusive of interest and costs." In the complaint filed in civil case No. 13038 of the municipal court, Ruiz sought to collect the sum of P2,000.00 with interest thereon from March 1, 1950, *plus P700*, as consequential damages, *and costs*. In other words, "the amount of the demand," exclusive of, and in addition to, interest and costs, aggregated P2,700.00. It is clear, therefore, that the municipal court had no jurisdiction to decide said case on the merits, and that its decision granting said demand is null and void.

The next question for determination is whether the action taken by the court of first instance in case No. 12719, on appeal from said decision of the municipal court, is a bar to the present case. Defendant-appellee, Ruiz, and the decision appealed from, maintain an affirmative answer, upon the ground that the legality of the decision of the municipal court in case No. 13038, had been upheld already in the "decision" of the Court of First Instance of Manila in case No. 12719; that the latter "decision" has become final and executory; that, consequently, the issue on the legality of the decision of the municipal court has thus been definitely settled; and that it may no longer be determined in the present case under the principle of *res adjudicata*. This view is untenable for:

(1) In case No. 12719 of the Court of First Instance of Manila, the same held that the decision of the municipal court had already become *final and executory*. Accordingly, the former court had *no jurisdiction to entertain the appeal*. It had no authority, therefore, to pass upon the legality of the decision of the municipal court and any finding made thereon by said court of first instance was null and void. Indeed, it has not been proven that said court had rendered a decision in case No. 12719. And, considering that it found the decision of the municipal court to be final and executory, the court of first instance must have issued merely an *order* of dismissal of the appeal. This is borne out by the fact that the Court of First Instance did not pass upon the merits of the claim of Ruiz for P2,700.00, plus interest and costs. Hence, the writ of execution issued by the municipal court sought to enforce its own decision, *not that of the court of first instance*. Had the appeal from the decision of the municipal court been reasonably perfected, however, said decision of the municipal court would have

been vacated and the court of first instance would have had to render a new decision, and even if the latter were, in effect, confirmatory of the former, the one to be executed would have been the decision of the court of first instance, not that of the municipal court, which would exist no longer.

(2) If the appeal from the decision of the municipal court had been perfected in due time, the court of first instance would have had no authority over the case except to dismiss the same for want of jurisdiction of the municipal court, for which reason the court of first instance could not have exercised *appellate* jurisdiction over the case. This court could not have even exercised its original jurisdiction, inasmuch as Gutierrez had impliedly objected thereto by questioning the legality of the decision of the municipal court. In other words, the decision of the court of first instance, had it rendered one in case No. 12719, sustaining the legality of the decision of the municipal court, would have been as null and void as the latter, for lack of jurisdiction therefor.

Referring now to the claim of plaintiff-appellant, Gutierrez, for damages, the evidence on record does not suffice to warrant a judgment thereon in his favor. Wherefore, the decision appealed from is hereby reversed and another one shall be entered declaring that the aforementioned decision of the Municipal Court of Manila in Civil Case No. 13038 thereof is null and void, without special pronouncement as to costs.

Parás, C. J., Pablo, Bengzon, Montemayor, Reyes, Jugo, Bautista Angelo, and Labrador, JJ., concur.

Padilla, J., did not take part.

Judgment reversed.

[No. L-4817. May 26, 1954]

SILVESTRE M. PUNSALAN, ET AL., plaintiffs and appellants,
vs. THE MUNICIPAL BOARD OF THE CITY OF MANILA,
ET AL., defendants and appellants.

1. TAXATION; LEGISLATIVE DEPARTMENT DETERMINES WHAT ENTITIES SHOULD BE EMPOWERED TO IMPOSE OCCUPATION TAX.—

It is not for the courts to judge what particular cities or municipalities should be empowered to impose occupation taxes in addition to those imposed by the National Government. That matter is peculiarly within the domain of the political departments and the courts would do well not to encroach upon it.

2. ID.; DOUBLE TAXATION.—There is double taxation where one tax is imposed by the state and the other is imposed by the city, it being widely recognized that there is nothing inherently obnoxious in the requirement that license fees or taxes be exacted with respect to the same occupation, calling or

activity by both the state and the political subdivisions thereof. (Citing 1 Cooley on Taxation, 4th ed., p. 492 and 51 Am. Jur., 341.)

APPEAL from a judgment of the Court of First Instance of Manila. Castelo, J.

The facts are stated in the opinion of the court.

Calanog and Alafritz for the plaintiffs and appellants.
City Fiscal Eugenio Angeles and Assistant Fiscal Eulogio S. Serrano for the defendants and appellants.

REYES, J.:

This suit was commenced in the Court of First Instance of Manila by two lawyers, a medical practitioner, a public accountant, a dental surgeon and a pharmacist, purportedly "in their own behalf and in behalf of other professionals practising in the City of Manila who may desire to join it." Object of the suit is the annulment of Ordinance No. 3398 of the City of Manila together with the provision of the Manila charter authorizing it and the refund of taxes collected under the ordinance but paid under protest.

The ordinance in question, which was approved by the municipal board of the City of Manila on July 25, 1950, imposes a municipal occupation tax on persons exercising various professions in the city and penalizes non-payment of the tax "by a fine of not more than two hundred pesos or by imprisonment of not more than six months, or by both such fine and imprisonment in the discretion of the court." Among the professions taxed were those to which plaintiffs belong. The ordinance was enacted pursuant to paragraph (1) of section 18 of the Revised Charter of the City of Manila (as amended by Republic Act No. 409), which empowers the Municipal Board of said city to impose a municipal occupation tax, not to exceed ₱50 *per annum*, on persons engaged in the various professions above referred to.

Having already paid their occupation tax under section 201 of the National Internal Revenue Code, plaintiffs, upon being required to pay the additional tax prescribed in the ordinance, paid the same under protest and then brought the present suit for the purpose already stated. The lower court upheld the validity of the provision of law authorizing the enactment of the ordinance but declared the ordinance itself illegal and void on the ground that the penalty therein provided for non-payment of the tax was not legally authorized. From this decision both parties appealed to this Court, and the only question they have presented for our determination is whether this ruling is correct or not, for though the decision is silent on the refund of taxes paid plaintiffs make no assignment of error on this point.

To begin with defendants' appeal, we find that the lower court was in error in saying that the imposition

of the penalty provided for in the ordinance was without the authority of law. The last paragraph (*kk*) of the very section that authorizes the enactment of this tax ordinance (section 18 of the Manila Charter) in express terms also empowers the Municipal Board "*to fix penalties for the violation of ordinances which shall not exceed to (sic) two hundred pesos fine or six months' imprisonment, or both such fine and imprisonment, for a single offense.*" Hence, the pronouncement below that the ordinance in question is illegal and void because it imposes a penalty not authorized by law is clearly without basis.

As to plaintiffs' appeal, the contention in substance is that this ordinance and the law authorizing it constitute class legislation, are unjust and oppressive, and authorize what amounts to double taxation.

In raising the hue and cry of "class legislation", the burden of plaintiffs' complaint is not that the professions to which they respectively belong have been singled out for the imposition of this municipal occupation tax; and in any event, the Legislature may, in its discretion, select what occupations shall be taxed, and in the exercise of that discretion it may tax all, or it may select for taxation certain classes and leave the others untaxed. (Cooley on Taxation, Vol. 4, 4th ed., pp. 3393-3395.) Plaintiffs' complaint is that while the law has authorized the City of Manila to impose the said tax, it has withheld that authority from other chartered cities, not to mention municipalities. We do not think it is for the courts to judge what particular cities or municipalities should be empowered to impose occupation taxes in addition to those imposed by the National Government. That matter is peculiarly within the domain of the political departments and the courts would do well not to encroach upon it. Moreover, as the seat of the National Government and with a population and volume of trade many times that of any other Philippine city or municipality, Manila, no doubt, offers a more lucrative field for the practice of the professions, so that it is but fair that the professionals in Manila be made to pay a higher occupation tax than their brethren in the provinces.

Plaintiffs brand the ordinance unjust and oppressive because they say that it creates discrimination within a class in that while professionals with offices in Manila have to pay the tax, outsiders who have no offices in the city but practice their profession therein are not subject to the tax. Plaintiffs make a distinction that is not found in the ordinance. The ordinance imposes the tax upon every person "exercising" or "pursuing"—in the City of Manila naturally—any one of the occupations named, but does not say that such person must have his office in Manila. What constitutes exercise or pursuit of a profession in the city is a matter for judicial determination.

The argument against double taxation may not be invoked where one tax is imposed by the state and the other is imposed by the city (1 Cooley on Taxation, 4th ed., p. 492), it being widely recognized that there is nothing inherently obnoxious in the requirement that license fees or taxes be exacted with respect to the same occupation, calling or activity by both the state and the political subdivisions thereof. (51 Am. Jur., 341.)

In view of the foregoing, the judgment appealed from is reversed in so far as it declares Ordinance No. 3398 of the City of Manila illegal and void and affirmed in so far as it upholds the validity of the provision of the Manila charter authorizing it. With costs against plaintiffs and appellants.

Pablo, Bengzon, Montemayor, Jugo, Bautista Angelo, Labrador, and Concepcion, JJ., concur.

Padilla, J., did not take part.

PARÁS, C. J., dissenting:

I am constrained to dissent from the decision of the majority upon the ground that the Municipal Board of Manila cannot outlaw what Congress of the Philippines has already authorized. The plaintiffs-appellants—two lawyers, a physician, an accountant, a dentist and a pharmacist—had already paid the occupation tax under section 201 of the National Internal Revenue Code and are thereby duly licensed to practice their respective professions throughout the Philippines; and yet they had been required to pay another occupation tax under Ordinance No. 3398 for practising in the City of Manila. This is a glaring example of contradiction—the license granted by the National Government is in effect withdrawn by the City in case of non-payment of the tax under the ordinance. If it be argued that the national occupation tax is collected to allow the professional residing in Manila to pursue his calling in other places in the Philippines, it should then be exacted only from professionals practising simultaneously in and outside of Manila. At any rate, we are confronted with the following situation: Whereas the professionals elsewhere pay only one occupation tax, in the City of Manila they have to pay two, although all are on equal footing insofar as opportunities for earning money out of their pursuits are concerned. The statement that practice in Manila is more lucrative than in the provinces, may be true perhaps with reference only to a limited few, but certainly not to the general mass of practitioners in any field. Again, provincial residents who have occasional or isolated practice in Manila may have to pay the city tax. This obvious discrimination or lack of uniformity cannot be brushed aside or justified by any trite pronouncement that double taxation is legitimate or that legislation may validly affect certain classes.

My position is that a professional who has paid the occupation tax under the National Internal Revenue Code should be allowed to practice in Manila even without paying the similar tax imposed by Ordinance No. 3398. The City cannot give what said professional already has. I would not say that this Ordinance, enacted by the Municipal Board pursuant to paragraph 1 of section 18 of the Revised Charter of Manila, as amended by Republic Act No. 409, empowering the Board to impose a municipal occupation tax not to exceed ₱50 per annum, is invalid; but that only one tax, either under the Internal Revenue Code or under Ordinance No. 3398, should be imposed upon a practitioner in Manila.

Judgment reversed.

[No. L-5682. May 26, 1954]

ANASTACIO N. ABAD, plaintiff and appellant, *vs.* CANDIDA GARGANILLO VDA. DE YANCE, ET AL., defendants and appellees.

JUDGMENTS; "RES JUDICATA"; "OBITER DICTUM".—As the decision of the Court of Appeals dismissing the petition for certiorari filed by the defendants was based on the latter's failure to move for the reconsideration of the order of the Court of First Instance denying their motion to dismiss the plaintiff's amended complaint, any pronouncement by said court with reference to the nature of the contract in question was purely an *obiter dictum*.

APPEAL from an order of the Court of First Instance of Pangasinan. Baltazar, *J.*

The facts are stated in the opinion of the court.

Amado B. Reyes for the plaintiff and appellant.

Rufino F. Mejia for the defendants and appellees.

PARÁS, *C. J.*:

On August 30, 1950, the plaintiff, Anastacio N. Abad, filed in the Court of First Instance of Pangasinan a complaint against the defendants Candida Garganillo Vda. de Yance, et al., praying that the deed of sale with right of repurchase dated December 10, 1931, be declared a mere equitable mortgage, and that the defendants be ordered to vacate the land described in paragraph 2 of the complaint and to deliver to the plaintiff certain amounts of palay as his share in the harvest of the land in question or their equivalent in money at ₱17.87 per cavan. On October 20, 1950, the plaintiff filed an amended complaint, with practically the same prayer as in the original complaint. On November 4, 1950, the defendants filed a motion to dismiss the amended complaint on the ground that its causes of action are barred by prior judgment and by the statute of limitations. This motion to dismiss was opposed by the plaintiff, and on December 4, 1950, the court issued an

order overruling the motion to dismiss and ordering the defendants to answer the complaint within the reglementary period. On January 5, 1951, the plaintiff filed a motion for default, alleging that the defendants had failed to file an answer, and on January 17, 1951, the court declared the defendants in default, and authorized the plaintiff to present his evidence on January 29, 1951. In the meantime, or on January 26, 1951, the court received notice of the filing in the Court of Appeals by the defendants of a petition for certiorari, to annul the order of default and to have plaintiff's amended complaint dismissed, as a result of which the Court of First Instance of Pangasinan issued an order on January 29, 1951, suspending further proceedings. Simultaneously, the defendants filed a motion to vacate the order of default. On December 5, 1951, the defendants' petition for certiorari was dismissed by the Court of Appeals on the ground that they did not file in the trial court a motion for the reconsideration of the order denying their motion to dismiss the amended complaint. On December 17, 1951, the defendants filed in the Court of First Instance of Pangasinan a motion for reconsideration, praying that plaintiff's amended complaint be dismissed with costs, the defendants invoking the following passage appearing in the decision of the Court of Appeals dismissing the defendants' petition for certiorari:

"The land involved in Yance's petition of September 17, 1938, is identically the one which Anastacio Abad claims that he had placed as a mere security for a loan of P1,800, but it was made to appear as sold *a retro*. In this petition Yance asked that the Register of Deeds be ordered 'to enter and note at the back of Title No. 48515 the herein attached deed of sale with right of repurchase.' If that contract was really one of mortgage, Abad should have so maintained in his answer, instead of admitting that it was one of a sale *a retro* and waiving away objection that it be so annotated. The nature of the contract entered into between Abad and Yance has thus already been determined. Abad cannot take back his admission and attack this contract asking that it be interpreted as one of mortgage."

On December 22, 1951, the plaintiff filed a petition to strike out the defendant's motion for reconsideration, after which the court, on January 15, 1952, issued an order setting aside the order of default, required the defendants to answer the amended complaint within 10 days, and denied the defendants' motion for reconsideration. On January 22, 1952, the defendants filed a motion praying that the order of January 15, be reconsidered and that their motion for reconsideration filed on December 17, 1951 be resolved on the merits. On January 29, 1952, the plaintiff in turn filed a motion for reconsideration, praying that the order of default be maintained and the defendants' motion for reconsideration be stricken from the records. This was followed by a motion filed by the defendants on January 29, 1952, praying that plaintiff's amended complaint be dismissed with costs, on the ground of *res judicata*, in that

the Court of Appeals, in dismissing the defendants' petition for certiorari, already ruled upon the nature of the contract between the plaintiff and the defendants. After hearing, the Court of First Instance of Pangasinan issued an order on February 25, 1952, dismissing the case with costs against the plaintiff, citing the following pronouncement of the Court of Appeals in its decision dismissing the defendants' petition for certiorari: "The nature of the contract entered into between Abad and Yance has already been determined. Abad cannot take back his admission and attack this contract asking that it be interpreted as one of mortgage." From this order the plaintiff has appealed.

It is at once obvious that the lower court erred in dismissing the case. It is significant that, in the decision of the Court of Appeals, the dismissal of the petition for certiorari filed by the defendants was based on the latter's failure to move for the reconsideration of the order of the Court of First Instance of Pangasinan denying the defendants' motion to dismiss the amended complaint. What was said by the Court of Appeals with reference to the nature of the contract in question was purely an *obiter dictum*, unnecessary for its decision. If it were not so, the defendants' petition would have been granted and plaintiff's amended complaint would have been dismissed. The matter touched upon by the Court of Appeals and invoked by the defendants, may have a proper place in an answer.

Wherefore, the appealed order is hereby set aside and the case remanded to the Court of First Instance of Pangasinan for further proceedings, starting from the issuance of an order by said court requiring the defendants to file an answer within a reasonable period. So ordered without costs.

Pablo, Bengzon, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, and Concepcion, JJ., concur.

Order set aside.

[No. L-6353. May 26, 1954]

DANIEL CABANGANGAN, petitioner, *vs.* ROBERTO CONCEPCION, ARSENIO P. DIZON, and DIONISIO DE LEON, Associate Justices of the Court of Appeals, Second Division, respondents.

1. CRIMINAL PROCEDURE; ARRAIGNMENT; LACK OF ARRAIGNMENT ON AMENDED INFORMATION, REVERSIBLE DEFECT; REMINDER TO COURT OF OMISSION AMOUNTED TO OBJECTION.—Where the information read to the petitioner was not the amended information but the original information, his conviction under the former suffers from a reversible defect for lack of arraignment. The petitioner had not waived his right to formal arraignment under the second information inasmuch as his counsel had twice called the attention of the trial court to the omission, and this reminder amounted to an objection.
2. *Id.*; *Id.*; *Id.*; *Id.*; AMENDED INFORMATION SUPERSEDES ORIGINAL INFORMATION.—The filing of the amended information super-

sedes the original information, and it is not correct to state that petitioner's felonious possession of firearm under Republic Act No. 482 could be established by proper evidence even under the original information.

ORIGINAL action in the Supreme Court. Certiorari.

The facts are stated in the opinion of the court.

Emilio A. Gancayco for the petitioner.

Solicitor General Juan R. Liwag and *Solicitor Jose G. Bautista* for the respondents.

PARÁS, C. J.:

The petitioner Daniel Cabangangan was charged before the Court of First Instance of Samar with the crime of illegal possession of firearm in the following information dated November 21, 1950:

"That on or about the 28th day of September, 1950, and sometime prior thereto, in the municipality of Calbiga, Province of Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there wilfully, unlawfully and feloniously have in his possession and under his custody and control a home-made shotgun with an empty shell, and 6 rounds of ammunition for a caliber 38 pistol, without securing first the necessary license therefor."

On January 25, 1951, the prosecution filed with the following amended information:

"That on or about the period comprised between May, 1950, and September 28, 1950, in the municipality of Calbiga, Province of Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there wilfully, unlawfully and feloniously have in his possession and under his custody and control a home-made shotgun with an empty shell, and 6 rounds of ammunition for a caliber 38 pistol, without securing first the necessary license therefor, and which the accused carried with him on September 28, 1950 and used to coerce one Antonio Pacuan."

When the petitioner was arraigned on June 29, 1951, the information read to him was not the amended information, but the original dated November 21, 1950. The amended information was filed, so as to allege the additional fact that the petitioner carried with him the firearm and ammunition and used the same to coerce Antonio Pacuan, obviously in order to pave the way for conviction under Republic Act No. 482. It appears from the record that, when the original information was read to the petitioner who pleaded not guilty, his attorney pointed out to the court that the arraignment was not under the amended information; and that, at the close of the trial, petitioner's counsel again reminded the court about the same fact. Yet the Court of First Instance of Samar found the petitioner guilty of illegal possession of firearm and ammunition; sentenced him to an indeterminate penalty of imprisonment ranging from 1 year and 1 day to 3 years and 1 month, and to pay the costs; and ordered the confiscation of the firearm and ammunition involved. From this judgment the

petitioner appealed to the Court of Appeals wherein he contended that his conviction was erroneous for lack of arraignment upon the amended information dated January 25, 1951. The Court of Appeals, however, affirmed the judgment of the trial court on the ground that the petitioner was aware of the filing of the amended information and, in failing to object to the presentation of evidence proving the additional allegation therein, waived formal arraignment thereunder; and that, as the original information averred that petitioner's possession was unlawful and felonious, proof of the existence of said charge was admissible even under the original information. The petitioner has filed the present petition for certiorari.

There is no question that the petitioner was not actually arraigned under the amended information of January 25, 1951. We believe that he had not waived his right thereto, in view of the fact that his counsel twice called the attention of the trial court to the omission, and this reminder amounted to an objection. As arraignment was mandatory, the petitioner having the constitutional right to be informed of the charge against him, his conviction—which would be only under the second information—suffers from a reversible defect. It is not correct to state that petitioner's felonious possession under Republic Act No. 482 could be established by proper evidence even under the original information, for the simple reason that the original information was superseded by the amended information.

Respondents' observation that the proper remedy is appeal by certiorari, and not the special civil action of certiorari, refers to form rather than to substance. Moreover, the petition herein contains allegations sufficient to make out an appeal under Rule 46 of the Rules of Court.

Wherefore, the appealed decision is reversed and the case is remanded to the court of origin for further proceedings in accordance with law. So ordered without costs.

Pablo, Montemayor, Reyes, Jugo, Bautista Angelo, and Labrador, JJ., concur.

Bengzon, J., reserved his vote.

Judgment reversed.

[No. L-6306. May 26, 1954]

FORTUNATO HALILI, plaintiff and appellee, *vs.* MARIA LLORET and RICARDO GONZALES LLORET, administrator of the intestate estate of FRANCISCO A. GONZALES, defendants and appellants.

1. OBLIGATIONS AND CONTRACTS; SALE OF PROPERTIES SUBJECT TO JUDICIAL ADMINISTRATION; SALE WITHOUT APPROVAL OF COURT CANNOT SERVE AS BASIS FOR ACTION OF SPECIFIC PERFORMANCE.—The sale of properties subject to judicial administration can not have any valid effect until it is approved by the court.

Where the terms that were made to appear in the document of sale differ substantially from the conditions prescribed in the authorization given by the court for the sale of the properties, the document cannot have any binding effect upon parties nor serve as basis for an action for specific performance in the absence of judicial approval.

2. **Id.; Id.; RESCISSION OF CONTRACT OF SALE.**—Plaintiff's attitude in suspending the payment of the two checks issued in favor of the defendants, in view of the latter's refusal to sign the documents of sale, clearly indicates that the understanding between the parties was merely in the stage of negotiation for otherwise the plaintiff could not have withdrawn legally from a transaction which had ripened into a consummated contract. And even if the transaction had reached the stage of perfection, it became rescinded when plaintiff withdrew from his part in the transaction.
3. **Id.; Id.; AMBIGUITY IN A CONTRACT OF SALE.**—Where the receipt merely recited the fact of receipt of the two checks without mentioning the purpose for which they were delivered, it can not be said that the checks were delivered as advance payment of the consideration of the sale of the lands in question. Such ambiguity shall be construed against the party who had drafted the receipt in view of the rule that an obscure clause in a contract can not favor the one who has caused the obscurity.
4. **Id.; Id.; CONSENT OF CO-OWNERS INDISPENSABLE.**—Where the lands subject of the contract of sale are owned *pro-indiviso* by the defendants, the consent of each co-owner to the terms of the sale is indispensable.
5. **Id.; Id.; PURCHASE PRICE TO BE RETURNED WHEN TRANSACTION IS CALLED OFF.**—Where one of the defendants had received the check representing the value of the purchase price of the lands in question and had deposited the same in his current account and the transaction was called off, the mere offer to return the money cannot relieve him from liability. His duty was to consign the amount in court and his failure to do so makes him answerable therefor to the plaintiff.

APPEAL from a judgment of the Court of First Instance of Bulacan. Paredes, Jr., *J.*

The facts are stated in the opinion of the court.

M. G. Bustos for the plaintiff and appellee.

Diokno and *Diokno* for the defendant and appellant.

BAUTISTA ANGELO, J.:

This is an action brought by plaintiff against the defendants to compel the latter to execute a deed of sale of certain parcels of land described in the complaint, and to recover the sum of ₱50,000 as damages.

The lower court decided the case in favor of the plaintiff, and the case is now before us because it involves an amount which is beyond the jurisdiction of the Court of Appeals.

The evidence for the plaintiff discloses the following facts:

The six parcels of land subject of the present action were owned *pre-indiviso* by Maria Lloret and the estate of Francisco A. Gonzales, of which Ricardo Gonzales Lloret

is the judicial administrator. On May 8, 1944, the judicial administrator filed a motion in the intestate proceedings praying for authority to sell the said parcels of land for a price of not less than ₱100,000, to which Maria Lloret and the other heirs of the estate gave their conformity. The court granted the motion as requested. Plaintiff became interested in the purchase of said parcels of land and to this effect he sought the services of Atty. Teofilo Sauco who readily agreed to serve him and took steps to negotiate the sale of said lands in his behalf. Sauco dealt on the matter with Ricardo Gonzales Lloret. After several interviews wherein they discussed the terms of the sale, especially the price, Gonzales Lloret told Sauco that if plaintiff would agree to pay the sum of ₱200,000 for the lands, he may agree to carry out the transaction. Sauco breached the matter to plaintiff who thereupon agreed to the proposition, and so, on June 17, 1944, Sauco went to see Gonzales Lloret in his office in Manila wherein, according to Sauco, it was agreed between them, among other things, that the lands would be sold to the plaintiff for the sum of ₱200,000 and that, after the execution of the sale, the plaintiff would in turn resell to Ricardo Gonzales Lloret one of the parcels of land belonging to the estate for an undisclosed amount. It was also agreed upon that, since the lands subject of the sale were then in litigation between the estate and one Ambrosio Valero, the deed of sale would include a clause to the effect that, if by March, 1945, the vendors would be unable to deliver to the purchaser the possession of the lands peacefully and without encumbrance, said lands would be substituted by others belonging to the estate, of equal area, value, and conditions. It was likewise agreed upon that Sauco would prepare the necessary documents, as in facts he did in the same office of Gonzales Lloret.

After preparing the documents, Sauco gave an account to the plaintiff of the result of his negotiations, and having signified his conformity thereto, plaintiff gave to Sauco two checks, one for the sum of ₱100,000 drawn against the Philippine National Bank in favor of Maria Lloret (Exhibit B), and another for the same amount drawn against the Philippine Trust Co. in favor of Ricardo Gonzales Lloret. With these checks, Sauco returned on the same date to the office of Gonzales Lloret to consummate the transaction, but as Maria Lloret was not then present, Gonzales Lloret told Sauco that he could leave the document with him as he would take care of having them signed by his mother Maria, and that he could return the next Monday, June 19, to get them which by then would be signed and ratified before a notary public. Since Sauco was then in a hurry to return to Malolos, and besides he had confidence in Gonzales Lloret, who was his friend, the

former agreed and left the two checks with the latter. But before receiving the checks, Gonzales Lloret issued a receipt therefor, which was marked Exhibit A. Of this development, Saucó informed the plaintiff in the afternoon of the same day, emphasizing the fact that he would return to the office of Gonzales Lloret to get the documents on June 19.

Saucó, however, was not able to return as was the understanding because he fell sick, and apprehensive of such failure, plaintiff went on the next day, June 20, to the Philippine National Bank to inquire whether the check he had issued in favor of Maria Lloret had already been collected, and having been informed in the affirmative, he next went to the Philippine Trust Co. to make the same inquiry with regard to the other check he issued against said bank in favor of Ricardo Gonzales Lloret, and when he was informed that the same had not yet been collected, he suspended its payment informing the bank that, should the party concerned execute the deed of sale for which it had been issued, he would reissue the check. The bank accordingly suspended the payment of the check as requested.

On the occasion of a visit which plaintiff paid to Saucó in Malolos, the latter handed over to him the receipt Exhibit A with the request that, in view of his sickness, he take charge of getting the deed of sale from Gonzales Lloret. Plaintiff tried to do so, but when he interviewed Gonzales Lloret, the latter refused to give him the documents on the pretext that he did not deal with him but with Saucó intimating that he would just wait until the latter recover from his sickness. When Saucó got well he tried to renew his dealing with Gonzales Lloret in an attempt to get from him the documents duly signed and ratified before a notary public, but the latter at first gave excuses for his inability to do his part as agreed upon until he finally said that he could not carry out the agreement in view of the fact that he had received other better offers for the purchase of the lands among them one for the sum of P300,000, plus a vehicle called *doker* with its corresponding horse. This attitude was taken by the plaintiff as a refusal to sign the deed of sale and so he instituted the present action making as party defendants Maria Lloret and her son Ricardo Gonzales Lloret.

Ricardo Gonzales Lloret denied that a definite understanding had ever been reached between him and the plaintiff or his representative relative to the sale of the lands in question. He testified that the documents marked Exhibits D and D-1 do not represent the agreement which, according to Teófilo Saucó, was concluded between them, intimating that said documents were already prepared when Saucó went to his office to take up with him the

matter relative to the sale on June 17, 1944; that Sauco, on that occasion, had already with him the two checks referred to in the receipt Exhibit A, who insisted in leaving them with him because he was in a hurry to return to Malolos, and so he accepted them by way of deposit and deposited them in his current account with the Philippine National Bank in order that they may not be lost; and that sometime in the morning of the succeeding Monday, June 19, a messenger of the Philippine National Bank came to see him to return the check issued in his favor against the Philippine Trust Co. with the information that the same had not been honored by the bank for the reason that the plaintiff had suspended its payment, which act he interpreted as an indication that the plaintiff had decided to call off the negotiation. In other words, according to Gonzales Lloret, when plaintiff suspended the payment of the two checks on June 19, 1944, as in fact one of them had been actually suspended because it had not yet been actually collected from the Philippine Trust Co., the understanding he had with Teofilo Sauco regarding the sale did not pass the stage of mere negotiation, and, as such, it did not produce any legal relation by which the defendants could be compelled to carry out the sale as now pretended by plaintiff in his complaint.

After a careful examination of the evidence presented by both parties, both testimonial and documentary, we are persuaded to uphold this contention of the defendants for the following reasons:

1. According to Teofilo Sauco, representative of the plaintiff, his agreement with defendant Gonzales Lloret was that the price of the lands subject of the sale would be P200,000 so much so that he delivered to said defendant two checks in the amount of P100,000 each issued in favor of each defendant against two banking institutions. On the other hand, in the document Exhibit D, which is claimed to be the one drawn up by Sauco in the very office of defendant Gonzales Lloret and which, according to Sauco, contained the precise terms and conditions that were agreed upon between them, the amount which appears therein as the consideration of the sale is P100,000. This discrepancy, which does not appear sufficiently explained in the record, lends cogency to the claim of Gonzales Lloret that when Sauco went to his office to discuss the transaction, he had already with him the document Exhibit D with the expectation that defendants might be prevailed upon to accept the terms therein contained, or with the intention of leaving the document with Gonzales Lloret for his perusal and for such alteration or amendment he may desire to introduce therein in accordance with his interest.

2. Both plaintiff and the defendants knew well that the properties were subject to judicial administration and that the sale could have no valid effect until it merits the approval of the court, so much so that before the lands were opened for negotiation the judicial administrator, with the conformity of the heirs, secured from the court an authorization to that effect, and yet, as will be stated elsewhere, the terms that were made to appear in the document Exhibit D differ substantially from the conditions prescribed in the authorization given by the court, which indicates that said document cannot have any binding effect upon the parties nor serve as basis for an action for specific performance, as now pretended by the plaintiff, in the absence of such judicial approval.

3. It is a fact duly established and admitted by the parties that the plaintiff suspended the payment of the two checks of P100,000 each on June 19, 1944 (or June 20 according to plaintiff) in view of the failure of defendants to sign the documents Exhibit D and D-1 which were delivered to them by Tcofilo Sauco, and in fact plaintiff succeeded in stopping the payment of one of them, or the check issued against the Philippine Trust Co. This attitude of the plaintiff clearly indicates that the understanding between the parties was merely in the stage of negotiation for otherwise the plaintiff could not have withdrawn legally from a transaction which had ripened into a consummated contract. And even if the transaction had reached the stage of perfection, we may say that it became rescinded when plaintiff withdraw from his part in the transaction.

4. It should be recalled that when Sauco handed over to defendant Gonzales Lloret the two checks referred to above, the latter was made to sign a receipt therefor, which was marked Exhibit A. This receipt was prepared by Sauco himself, and it merely recited the fact of the receipt of the two checks, without mentioning the purpose for which the checks were delivered. If it is true that those checks were delivered as advance payment of the consideration of the sale referred to in the contract Exhibit D, no reason is seen why no mention of that fact was made in the receipt. This ambiguity cannot but argue against the pretense of Sauco who drafted the receipt in view of the rule that an obscure clause in a contract cannot favor the one who has caused the obscurity (Article 1288, Old Civil Code.)

5. One of the documents turned over by Sauco to defendant Gonzales Lloret is Exhibit D-1 which represents the resale by the plaintiff to the latter of one of the parcels of land originally included in the sale contained in the document Exhibit D, and, according to Sauco, said document Exhibit D-1 was delivered to defendant Gonzales Lloret

for ratification before a notary public. An examination of said document Exhibit D-1 will reveal that it contains many blank spaces intended to be filled out later on, and the same does not bear the signature of the plaintiff. This indicates that said document Exhibit D-1 was but a mere draft and corroborates the statement of Gonzales Lloret that it was given to him, together with the document Exhibit D, merely for his perusal and possible amendment or alteration. And

6. It should be noted that the lands subject of negotiation were owned *pro-indiviso* by Maria Lloret and the estate of Francisco A. Gonzales, and in that negotiation defendant Gonzales Lloret was merely acting in his capacity as judicial administrator. Being a co-owner of the lands, the consent of Maria Lloret to the terms of the sale is evidently indispensable, and yet there is nothing in the evidence to show that she has ever been contacted in connection with the sale, nor is there any proof that Gonzales Lloret had been authorized to conduct negotiations in her behalf. What the record shows was that Gonzales Lloret would take up the matter with Maria Lloret on the date subsequent to that when the two documents were delivered by Saucó to him (June 17, 1944), but this never materialized because of the unexpected sickness of Teófilo Saucó.

Let us now examine the terms of the authorization given by the court relative to the sale of the lands in question, and see if the same had been observed in the preparation of the deed of sale Exhibit D. Let us note, at the outset, that the authorization of the court refers to the sale of certain parcels of land of an area of 20 hectares situated in the *barrio of Sabang*, municipality of Baliuag, Province of Bulacan, for a price of not less than ₱100,000, with the express condition that the encumbrance affecting those lands would first be paid. Analyzing now the terms appearing in the document Exhibit D, we find that among the lands included in the sale are lands situated in the *barrio of San Roque*. This is a variation of the terms of the judicial authorization. The document Exhibit D also stipulates that the sale would be free from any encumbrance, with the exception of the sum of ₱30,000 which is indebted to Ambrosio Valero, but said document likewise stipulates that the possession of the lands sold should be delivered to the purchaser sometime in March of the next year and that if this could not be done the lands would be substituted by others of the same area and value, belonging to the estate of Francisco A. Gonzales. This is an onerous condition which does not appear in the authorization of the court. Of course, this is an eventuality which the plaintiff wanted to forestall in view of the fact that the lands subject of the sale were pending litigation between the estate and Ambrosio Valero, but this is no justification for departing

from the precise terms contained in the authorization of the court. And we find, finally, that the authorization calls for the sale of six parcels of land belonging to the estate, but in the document as drawn up by Sauco it appears that only five parcels would be sold to the plaintiff, and the other parcel to Ricardo Gonzales Lloret. Undoubtedly, this cannot legally be done for, as we know, the law prohibits that a land subject of administration be sold to its judicial administrator.

The foregoing discrepancies between the conditions appearing in the document Exhibit D and the terms contained in the authorization of the court, plus the incongruencies and unexplained circumstances we have pointed out above, clearly give an idea that all that had taken place between Sauco and defendant Gonzales Lloret was but mere planning or negotiation to be threshed out between them in the conference they expected to have on June 19, 1944, but which unfortunately was not carried out in view of the illness of Teofilo Sauco. Such being the case, it logically follows that the action of the plaintiff has no legal basis.

Before closing, one circumstance which should be mentioned here is that which refers to the delivery by Sauco to Gonzales Lloret of the check in the amount of ₱100,000 drawn against the Philippine National Bank which Lloret deposited in his current account with that institution. According to the evidence, when the transaction was called off because of the failure of Sauco to appear on the date set for his last conference with Lloret, the latter attempted to return the said amount to Sauco on August 2, 1944 who declined to accept it on the pretext that he had another buyer who was willing to purchase the lands for the sum of ₱300,000 and that if that sale were carried out Lloret could just deduct that amount from the purchase price. That offer to return, in our opinion, cannot have the effect of relieving Lloret from Liability. His duty was to consign it in court as required by law. His failure to do so makes him answerable therefor to the plaintiff which he is now in duty bound to pay subject to adjustment under the Ballentyne Scale of Values.

Wherefore, the decision appealed from is reversed, without pronouncement as to costs. Defendant Ricardo Gonzales Lloret is ordered to pay to the plaintiff the sum of ₱100,000 which should be adjusted in accordance with the Ballentyne Scale of Values.

Parás, C. J., Pablo, Bengzon, Montemayor, Reyes, Jugo, Labrador, and Concepcion, JJ., concur.

Judgment reversed.

[No. L-6463. May 26, 1954]

RIZAL SURETY & INSURANCE Co., plaintiff and appellee,
vs. MARCIANO DE LA PAZ, ET AL., defendants-appellants and appellees. MARCIANO DE LA PAZ and DOMINGO LEONOR, defendants and appellants.

1. OBLIGATIONS AND CONTRACTS; PREFERENCE OF CREDITS; INSOLVENCY.—Where the debtor is insolvent, article 1924 of the old Civil Code is not applicable, since it is considered repealed insofar as it referred to cases of bankruptcy and estates of deceased persons.
2. ID.; ID.; LAW ON ATTACHMENT AND LAW ON PREFERENCE OF CREDITS APPLIED TOGETHER.—The law on attachment and the law on preference of credits under article 1924 of the Civil Code had heretofore been applied hand in hand.
3. ID.; ID.; ID.; AMUSEMENT TAXES, SUPERIOR LIEN.—The claim of the Collector of Internal Revenue for amusement taxes on the theater insured, constitutes a lien superior to all other charges or liens, not only on the theater itself but also upon all property rights therein, including the insurance proceeds.
4. ID.; ID.; ORDER OF PREFERENCE UNDER ARTICLE 1924 OF CIVIL CODE.—The order of preference under article 1924, paragraph 3, of the Civil Code, is, first, in favor of credits evidenced by a public instrument and, secondly, in favor of credits evidenced by a final judgment, should they have been the subject of litigation, the preference among the two kinds of credits being determined by priority of dates.
5. ID.; ID.; ID.; ID.; PUBLIC INSTRUMENT; DATE IN BODY IS DATE OF ACKNOWLEDGMENT BY REFERENCE.—Where an instrument is dated in the body, and said date is referred to in the notarial acknowledgment, the date of the latter is deemed to be the date appearing in the body of the instrument.
6. ID.; ID.; ID.; ID.; CREDIT EVIDENCED BY PUBLIC INSTRUMENT NEED NOT BE REDUCED TO JUDGMENT.—A credit evidenced by a public instrument, though not reduced to a judgment, is entitled to priority, because article 1924 of the Civil Code distinguishes credits evidenced by a public document from those evidenced by a final judgment.
7. ID.; ID.; ID.; ID.; PREFERENCE UNDER PUBLIC INSTRUMENT NOT LOST BY REDUCTION THEREOF INTO JUDGMENT.—The preference under a public instrument is not lost by the mere fact that the credit is made the subject of a subsequent judicial action and judgment.
8. ID.; ID.; ID.; ID.; FINAL JUDGMENT; ABSENCE OF STAY OF EXECUTION.—A judgment upon which execution has not been stayed under the provisions of section 14 of Act 190, is entitled to the preference provided for in article 1924 of the Civil Code.
9. ID.; ID.; ID.; ID.; PREFERENCE DUE TO NOTICE OF ATTACHMENT OR GARNISHMENT.—A credit made the subject of notice of attachment or garnishment is entitled to preference as of the date of said notice, subject only to the priority of credits provided for by article 1924 of the old Civil Code.

APPEAL from a judgment of the Court of First Instance of Manila. Pecson, J.

The facts are stated in the opinion of the court.

Amelito R. Mutuc for the plaintiff and appellee.

Tolentino & Garcia for the defendant and appellant.

Padilla, Carlos & Fernando for the defendant and appellant *D. Leonor*.

F. A. Rodrigo for the interpleader-appellee *Pablo Roman*.

Solicitor General for the Collector of Internal Revenue.

Tanjuatco & Del Rosario for the appellees *Jose Santos* and *D. Nepomuceno*.

Alfonso G. Espinosa for *S. D. Yñigo*.

PARÁS, C. J.:

On March 22, 1950, the plaintiff *Rizal Surety and Insurance Company* filed a complaint in the Court of First Instance of Manila, alleging that the sum of ₱20,000 was due and payable to the *Federal Films, Inc.*, as proceeds of fire insurance covering a theater situated in *Marikina, Rizal*, which was destroyed by fire on February 1, 1947; that as several creditors of the insured, namely, *Marciano de la Paz, Domingo Leonor, Jose Santos* and *Dominador Nepomuceno, Pablo Roman, Sera-pion D. Yñigo*, and the Collector of Internal Revenue, were claiming said proceeds from the plaintiff, the latter had no means of knowing definitely the order of preference among the various claimants; and praying that said creditors, named defendants in the complaint, be ordered to interplead and litigate their conflicting claims, and that the sum of ₱20,000 be ordered paid to the court for delivery to the proper parties, after deducting the costs of the suit. After the defendants had filed their respective answers, the Court of First Instance of Manila rendered a decision the dispositive part of which reads as follows:

"Wherefore, judgment is hereby rendered in favor of the defendants, and the plaintiff is ordered to pay said defendants out of the ₱20,000 minus the costs in its favor, in the following order: first, the Collector of Internal Revenue to be paid the sum of ₱3,216.08; second, *Jose Santos* and *Dominador Nepomuceno* to be paid the sum of ₱10,000; third, the defendant *Pablo Roman* to be paid the sum of ₱9,000, with six per centum interest per annum from the date of the filing of complaint in Civil Case No. 73256 and his costs in said case out of the remaining balance; fourth, the defendant *Domingo E. Leonor* to be paid the sum of ₱20,000 with interest of six per centum per annum from the date of the filing of the complaint in Civil Case No. 1749, should there be any balance; and fifth, the defendant *Marciano de la Paz* to be paid the sum of ₱6,001.50 with interest of six per centum from February 5, 1947, the date of the demand, plus ₱545 as costs and sheriff's fees should there be any balance left."

From this judgment, which applied section 315 of the National Internal Revenue Code and article 1924, paragraph 3, of the old Civil Code, the defendants *Marciano*

de la Paz and Domingo Leonor appealed. Briefly the contention of appellant Marciano de la Paz is that his claim for ₡6,001.50 should enjoy first priority, because on February 5, 1947, he caused to be garnished the proceeds in question, said garnishment being prior to all other liens. The appellant Domingo Leonor in turn contends that his claim for ₡2,300 is superior, except with regards to the tax lien of the Collector of Internal Revenue, because it is evidenced by a public document dated July 19, 1946, in addition to the fact that he garnished the disputed insurance proceeds on February 17, 1947. Incidentally it is insisted for both appellants that, where priority of attachments is involved, article 1924 of the Civil Code is not applicable. Appellant de la Paz further argues that article 1924 may be invoked only when there is a showing of the debtor's insolvency.

In the first place, we may point out that, where the debtor was insolvent, article 1924 was held not applicable, since it was considered repealed insofar as it referred to cases of bankruptcy and estates of deceased persons. (*Peterson vs. Newberry et al.*, 6 Phil., 268.)

In the second place, we find that the law on attachment and the law on preference of credits under article 1924 of the Civil Code had been applied by this court hand in hand, as may be gleaned from the following pronouncements in the case of *Kuenzle & Streiff vs. Villanueva*, 41 Phil., 611, 614-615:

"In other words, the question for consideration is whether an attachment levied on specific property gives to the attaching creditor a lien or a right to a preference in the nature of a lien, superior to the statutory right to a preference which is recognized in article 1924 of the Civil Code in favor of the owner of an after-acquired judgment.

"In a long and unbroken line of decisions, running through our reports from the first volume down to the last, we have uniformly and steadfastly sustained and recognized the statutory preferences created by the provisions of title 17 of the Civil Code, save only in so far as they have been expressly or by necessary implication repealed or modified by Acts of the Commission or the Legislature.

* * * * *

"Upon full consideration of the provisions of the New Code of Civil Procedure by virtue of which levies of attachments are authorized, and of the circumstances under which that Code was enacted by a commission the majority of whose members were American lawyers, we are satisfied that it was the intention of the legislature to give as attaching creditor a lien or at least a right in the nature of a lien in the attached property; but we see no reason whatever for holding that this lien, or right in the nature of a lien, rises superior to any statutory preferences with which the property is affected at the time of its attachment."

We shall therefore proceed to determine the order of preference herein, in the light of priority both by reason

of attachments and by reason of article 1924 of the Civil Code, subject however to the superior lien of the Collector of Internal Revenue in virtue of section 315 of the National Internal Revenue Code which provides as follows:

"Every internal revenue tax on property or in any business or occupation, and every tax on resources and receipts, and any increment to any of them incident to delinquency, shall constitute a lien superior to all other charges or liens not only on the property itself upon which such tax may be imposed but also upon the property used in any business or occupation upon which tax is imposed and upon all property rights therein."

We are of the opinion that the trial court correctly ordered that the claim of the Collector of Internal Revenue be paid first. Said claim being for amusement taxes on the theater insured, constitutes a lien superior to all other charges or liens not only on the theater itself but also upon all property rights therein, including the insurance proceeds.

Under article 1924, paragraph 3, of the Civil Code, the order of preference is, first, in favor of credits evidenced by a public instrument, and, secondly, in favor of credits evidenced by a final judgment, should they have been the subject of litigation, the preference among the two kinds of credits being determined by priority of dates.

The trial court was also correct in placing the claim of Jose Santos and Dominador Nepomuceno second in the list of creditors, because their credit is evidenced by a public document dated May 23, 1946. Appellants, with appellee Pablo Roman, argue that said document cannot be classified as public, because its acknowledgment is not dated. This contention is not tenable, since an examination of the instrument shows that the body is dated at Manila on May 23, 1946, and in the acknowledgment the following appears: "Witness my hand and official seal in the date and place above mentioned." This recital logically refers to the date and place specified in the preceding body of the document. There is no point in the observation that the credit of Santos and Nepomuceno, not being reduced to a judgment, should not be entitled to any preference binding against the Federal Films, Inc., which is not a party hereto, because article 1924 of the Civil Code as a matter of fact distinguishes credits evidenced by a public document from those evidenced by a judgment. At any rate, in so far as the absence in this case of the common debtor is concerned, all the defendants are on equal footing.

The next in preference, in our opinion, is the credit of appellant Domingo Leonor because, although he caused a notice of garnishment to be served upon the plaintiff on February 17, 1947, or subsequent to the notice of garnishment of appellant Marciano de la Paz on February

5, 1947, the former's credit is none the less evidenced by a public instrument dated July 19, 1946, duly presented as exhibit. Preference claimed under a public document is not lost by the mere fact that the credit is made the subject of a subsequent judicial action and judgment. Even appellee Pablo Roman admits this proposition.

The next preferred credit is that of defendant-appellee Pablo Roman, evidenced by a judgment which became final on September 26, 1946. It is contended on the part of appellant Domingo Leonor that said judgment was not yet final then, because an appeal was taken therefrom to the Supreme Court which resolved it in favor of appellee Pablo Roman only on May 27, 1947. However, as correctly observed by counsel for the latter, the judgment of September 26, 1946, was not appealed, and the petition filed before the Supreme Court was one for certiorari against the order of the trial court dismissing the appeal; and, indeed, two writs of execution had been issued during the pendency of the certiorari proceeding, one on December 24, 1946, and another on January 9, 1947. In *McMicking vs. Lichauco*, 27 Phil., 386, it was held that "a judgment upon which execution has not been stayed, under the provisions of section 144 of Act No. 190, is entitled to the preference provided for in article 1924 of the Civil Code."

The remaining credit to be paid is that of appellant Marciano de la Paz, whose notice of garnishment was served on the plaintiff on February 5, 1947, the appealed decision being correct on this phase of the case. Sera-pion D. Yñigo failed to present any evidence in support of his claim.

It being understood that the various claimants should be paid in the order indicated in this decision, and that none of them is entitled to receive any interest (as the plaintiff-appellee cannot be deemed as having defaulted in paying out the insurance proceeds in question), the appealed judgment, as thus modified, is hereby affirmed. So ordered without costs.

Pablo, Bengzon, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, and Concepcion, JJ., concur.

Judgment affirmed with modification.

[No. L-7024. May 26, 1954]

ROMAN TOLSA, petitioner, *vs.* HONORABLE ALEJANDRO J. PANLILIO, Judge of the Court of First Instance of Manila and ATAYDE BROTHERS AND COMPANY, respondents.

COURTS; JURISDICTION OVER CIVIL CASES.—The amount which determines the jurisdiction of the courts of general jurisdiction is

the amount sought to be recovered, usually contained in the prayer, and not the amount found after trial to be due.

ORIGINAL ACTION in the Supreme Court. Certiorari.

The facts are stated in the opinion of the court.

M. S. del Prado for the petitioner.

Filemon R. Enrile for the respondents.

MONTEMAYOR, J.:

As a result of the collision in the month of October, 1948, between a truck owned by respondent Atayde Brothers and Company driven by one Elpidio Bamba and a passenger bus owned by petitioner Roman Tolsa, Bamba was prosecuted in the Court of First Instance of Manila in Criminal Case No. 8748 for damage to property thru reckless imprudence, was found guilty, and sentenced to pay a fine of ₱765, to indemnify Tolsa in the same amount, with subsidiary imprisonment in case of insolvency, and to pay the costs. On appeal the decision was affirmed by the Court of Appeals. Bamba failed to pay the two amounts and had to undergo the corresponding subsidiary imprisonment. Because of Bamba's insolvency and his failure to pay the indemnity Tolsa filed in the same Court of First Instance of Manila Civil Case No. 19557 against Atayde Brothers and Company and Elpidio Bamba to recover the amount of ₱2,013 consisting of the indemnity of ₱765, ₱98 as damage to one tire as a result of the collision, ₱950 as consequential damages which is the amount Tolsa was supposed to have failed to realize as income during the time that his bus was being repaired, and ₱200 as attorney's fees, or a total of ₱2,013. Defendants in said civil case answered the complaint and the court set the hearing of the case on August 20, 1953. However, on August 5th, that is, fifteen days before the date set for hearing, respondent Judge Panlilio *motu proprio* dismissed the case, without prejudice, on the ground that the court was without jurisdiction to try the same for the reason that the amount sought to be recovered in the action was less than ₱2,000. A motion for reconsideration by plaintiff Tolsa was denied and so he filed the present petition for certiorari on the ground that despite the fact that respondent Judge had jurisdiction over the case, he acted in excess of his jurisdiction and with grave abuse of his discretion in dismissing it.

Although respondent Judge in his order of dismissal did not state the reason why he ruled that he had no jurisdiction over the case, we presume that he was of the belief that plaintiff Tolsa was entitled only to the amount of ₱765 awarded to him as indemnity in the criminal case, and that for this reason, the Municipal Court had jurisdiction. We have already held in several decisions that what determines the jurisdiction of a court in civil cases is not the amount that plaintiff is entitled to recover under the allegations

of the complaint and under the law but the amount sought to be recovered, usually contained in the prayer. In the recent case of *Lim Bing It vs. Hon. Fidel Ibañez, et al.*, G. R. No. L-5216, March 16, 1953, also a case of certiorari but which we regarded as one for mandamus, wherein the petitioner therein filed an action in the Court of First Instance of Manila to recover P4,526.30, exclusive of interest, itemized as follows: P326.30 for merchandise bought on credit; P2,000 for damages, and P2,200 as attorney's fees, and where the trial court pronounced itself as without jurisdiction on the ground that "the cause of action" was only for the amount of P326.30, we held that the amount which determines the jurisdiction of the courts of general jurisdiction is the amount sought to be recovered and not the amount found after trial to be due; and as we found that the respondent Judge therein erred in holding that he had no jurisdiction, we granted the petition and directed him to decide the case.

Finding the present petition for certiorari which we regard as a petition for mandamus to be well-founded, the same is hereby granted, and setting aside the order of dismissal of respondent Judge, he is hereby directed to reinstate Civil Case No. 19557 and hear the same. No costs.

Parás, C. J., Pablo, Bengzon, Reyes, Jugo, Bautista Angelo, Labrador, and Concepcion, JJ., concur.

Padilla, J., did not take part.

Petition for certiorari regarded as petition for mandamus granted.

[No. L-7042. May 28, 1954]

CLOTILDE MEJIA VDA. DE ALFAFARA, petitioner and appellant, *vs.* PLACIDO MAPA, in his capacity as Secretary of Agriculture and Natural Resources, BENITA COMPANA, ET AL., respondents and appellees.

1. PUBLIC LAND LAW, DISPOSITION OF PUBLIC LANDS; DIRECTOR OF LANDS CAN NOT DISPOSE LAND WITHIN THE FOREST ZONE.—Where the land covered by the homestead application of petitioner was still within the forest zone or under the jurisdiction of the Bureau of Forestry, the Director of Lands had no jurisdiction to dispose of said land under the provisions of the Public Land Law and the petitioner acquired no right to the land.
2. *Id.*; *Id.*; EFFECT OF CONTRACT OF LANDLORD AND TENANT EXECUTED IN GOOD FAITH.—Even if the permit granted to petitioner's deceased husband by the Bureau of Forestry to possess the land and work it out for his benefit was against the law and as such could have no legal effect, yet where he had acted thereon in good faith honestly believing that his possession of the land was legal, and had entered into a contractual relation of landlord and tenant with the respondents in good faith, the contract had produced as a necessary

consequence the relation of landlord and tenant; therefore, his widow should be given the preference to apply for the land for homestead purposes.

3. **ID.; DECISION RENDERED BY DIRECTOR OF LANDS AND APPROVED BY THE SECRETARY OF AGRICULTURE AND NATURAL RESOURCES, CONCLUSIVE; EXCEPTIONS.**—The doctrine that “a decision rendered by the Director of Lands and approved by the Secretary of Agriculture and Natural Resources, upon a question of fact is conclusive and not subject to be reviewed by the courts, in the absence of a showing that such decision was rendered in consequence of fraud, imposition, or mistake, other than error of judgment in estimating the value or effect of evidence” does not apply to a decision of the Director of Lands which has been revoked by the Secretary of Agriculture and Natural Resources. Even if there is unanimity in the decision, still the doctrine would not apply if the conclusions drawn by the Secretary from the facts found are erroneous or not warranted by law.

APPEAL from a judgment of the Court of First Instance of Cebu. Varela, *J.*

The facts are stated in the opinion of the court.

Mariano M. Florido for the petitioner and appellant.

Abundio A. Aldemita for respondents and appellees Benito Campana, et al.

Assistant Solicitor General Guillermo E. Torres and *Solicitor Jaime de los Angeles* for respondent and appellee Placido Mapa.

BAUTISTA ANGELO, *J.*:

This is a petition for certiorari filed in the Court of First Instance of Cebu in which petitioner seeks to nullify a decision rendered by the Secretary of Agriculture and Natural Resources in D. A. N. R. Case No. 224 concerning lot No. 741 of the Carcar cadastre on the ground that he acted in excess of his jurisdiction or with grave abuse of discretion.

It appears that petitioner and respondents filed separately with the Bureau of Lands an application claiming as homestead lot No. 741 of the Carcar cadastre. After an investigation conducted in accordance with the rules and regulations of said bureau, a decision was rendered in favor of petitioner thereby giving course to her application and overruling the application and protests of respondents. In due course, respondents appealed to the Secretary of Agriculture and Natural Resources, who reversed the decision of the Director of Lands. And her motion for reconsideration having been denied, petitioner interposed the present petition for certiorari.

Respondents in their answer alleged that, under section 3 of the Public Land Law, the Secretary of Agriculture and Natural Resources is the executive officer charged with the duty to carry out the provisions of said law

relative to the administration and disposition of the lands of the public domain in the Philippines; that the decision which is now disputed by petitioner was rendered after a formal investigation conducted in accordance with the rules and regulations of the Department of Agriculture and Natural Resources and on the basis of the evidence adduced therein and, therefore, said Secretary has not abused his discretion in rendering it; and that the decision of the Secretary of Agriculture and Natural Resources on the matter is conclusive and not subject to review by the courts, in the absence of a showing that it was rendered in consequence of fraud, imposition, or mistake other than an error of judgment in estimating the value or effect of the evidence presented, citing in support of this contention the case of *Ortua vs. Singson Encarnacion*, 59 Phil., 440.

The lower court, after the reception of the evidence, upheld the contention of respondents, and dismissed the petition, whereupon petitioner took the case on appeal to the Court of Appeals. The case, however, was certified to this court on the ground that the appeal involves purely questions of law.

The facts of this case as found by the Director of Lands are: By virtue of an application filed by Maximo Alfafara, the Bureau of Forestry granted him a permit on February 1, 1923, by virtue of which he was authorized to construct and maintain a fishpond within lot No. 741 of the Carcar cadastre. Said permittee constructed fishpond dikes long the side of the land facing General Luna street and running parallel to the river. Said dikes were destroyed by the flood which occurred in the same year. In 1926, the permittee abandoned the idea of converting the land into a fishpond and, instead, he decided to convert it into a rice field to this effect the permittee entered into an agreement with respondents whereby the latter would convert the land into a ricefield on condition that they would take for themselves the harvests for the first three years and thereafter the crop would be divided share and share alike between the permittee and the respondents. In 1930, the permittee ceded his rights and interests in the land to his son, Catalino Alfafara, who continued improving the same by constructing more rice paddies and planting nipa palms along its border. Having converted the land into a ricefield, Catalino Alfarara filed a homestead application therefor in his name while at the same time continuing the same arrangement with respondents as share croppers. Upon the death of Catalino Alfafara in 1945, the respondents, after the harvest in 1946, began asserting their own right over the land and refused to give the share corresponding to Catalino Alfafara to his widow, the herein petitioner.

The claim of respondents that they improved the land in their own right and not with permission of petitioner's predecessors-in-interest, was not given credence by the Bureau of Lands, for its agents found, not only from the evidence presented, but also from their ocular inspection, that the land has been under the rightful possession of Maximo Alfarara since 1923, and that respondents were only able to work thereon upon his permission on a share basis. By virtue of these findings of the Director of Lands, the homestead application of petitioner was given due course.

On appeal however to the Secretary of Agriculture and Natural Resources, this official reversed the decision of the Director of Lands invoking the ruling long observed by his department in connection with the disposition of public lands which are formerly within the forest zone or under the jurisdiction of the Bureau of Forestry. He held that neither petitioner nor any of her predecessors-in-application filed by each inasmuch as the land covered by them was still within the forest zone when applied for and that, for that reason, the Director of Lands had no jurisdiction to dispose of said land under the provisions of the Public Land Law. He likewise held that, inasmuch as the Alfafaras have not established any right to the land at the time they entered into the contract with respondents to work on the land on a share basis, the relation of landlord and cropper between them did not legally exist and as such did not produce any legal effect. Consequently,—he held—the Alfafaras cannot be considered as landlords of respondents, and between an actual occupant of an agricultural land which is released from the forest zone and certified as disposable under the Public Land Law, and an applicant whose application expired prior to its certification, the actual occupant is given preferential right thereto over the appellant.

The ruling above adverted to reads as follows:

"It is the rule in this jurisdiction which has been followed consistently in the disposition of forest land which have been declared agricultural lands that occupation of a forest land prior to the certification of the Director of Forestry that the same is released from the forest zone and is disposable under the provisions of the Public Land Law does not confer upon the occupant thereof the right of preference thereto under the said law. In the same manner, this office does not give and does not recognize any right of preference in favor of homestead applicants whose applications were filed prior to the certification that the land covered thereby has already been released from the forest zone and is disposable under the provisions of the Public Land Law. In other words, prior to the certification by the Bureau of Forestry that a parcel of forest land is already released from the forest zone and is disposable under the provisions of the Public Land Law, this

Department does not recognize any right of preference in favor of either the actual occupant thereof or any homestead applicant therefor. The reason for this is that any permit or license issued by the Bureau of Forestry for a parcel of forest land can not bind the Bureau of Lands to recognize any right in favor of the permittee under the provisions of the Public Land Law; and any homestead application filed prior to the certification by the Director of Forestry is ineffective and subject to rejection. From the time, however, that a parcel of forest land is released from the forest zone and certified as disposable under the provisions of the Public Land Law, the occupation of the actual occupant becomes effective and is recognized by the Public Land Law under section 95 thereof. Also the homestead application filed prior to the certification by the Director of Forestry will become effective from the date of the certification, if the same had not been rejected prior to such certification. But, between the actual occupant of a parcel of agricultural land and an applicant therefor whose application was filed prior to its certification as such by the Director of Forestry, this office always recognizes the preferential right thereto of the actual occupant thereof. In a long line of decisions in appealed cases, this office always maintains that agricultural lands already and actually occupied and cultivated cannot be applied for under the homestead law except by the actual occupant thereof." (Vicente Ruiz et al., *vs.* H. A. [New], Mariano Ba. Mancao, Isabela. City of Zamboanga, decision dated April 13, 1949 and order dated July 23, 1949.)

The question now to be determined is: Has the Secretary of Agriculture and Natural Resources abused his discretion in reversing the decision of the Director of Lands?

At the outset, it should be stated that the findings of fact made by the Director of Lands had been substantially upheld by the Secretary of Agriculture and Natural Resources. They only differ on the conclusions derived therefrom and on the effect upon them of the law regarding the disposition of public lands which formerly were within the forest zone or under the jurisdiction of the Bureau of Forestry.

Thus, the first question decided by the Secretary of Agriculture and Natural Resources is: Has petitioner or any of her predecessors-in-interest acquired any right to the land under the provisions of the Public Land Law? And the Secretary, following the ruling above stated, answered in the negative. His reasoning follows: "Neither Clotilde Mejia Vda. de Alfafara nor any of her predecessors-in-interest could acquire any right under the homestead application filed by each of them inasmuch as the land covered thereby was still within the forest zone and that for that reason, the Director of Lands had no jurisdiction to dispose of said land under the provisions of the Public Land Law." To this we agree, for it appears that the land was released from the forest zone only on August 10, 1949, and the permit granted to Maximo Alfafara to possess the land for purposes of homestead was in 1923. And with regard to Catalino Alfafara, his son, his application was filed only in 1930.

The second question decided by the Secretary is: What is the legal effect of the contractual relation of landlord and tenant existing between the Alfafaras and the respondents? The answer of the Secretary is: "Considering that none of the Alfafaras has established any right whatsoever to the land in question at the time the contractual relation began, this office is of the opinion and so holds that the relation of landlord and cropper could not and did not produce any legal effect because the supposed landlords, the Alfafaras, have no title or right to the land in question under the provisions of the Public Land Law. In other words, this office cannot see how any of the Alfafaras could be considered landlord of the claimants on the land in question when none of them has any right over said land under the Public Land Law."

With this conclusion we disagree. Even in the supposition that the permit granted to Maximo Alfafara by the Bureau of Forestry to possess the land and work it out for his benefit be against the law and as such can have no legal effect, the fact however is that Maximo Alfafara has acted thereon in good faith honestly believing that his possession of the land was legal and was given to him under and by virtue of the authority of the law. Likewise, it cannot be reasonably disputed that when Maximo Alfafara entered into a contract with the respondents for the conversion of the land into a ricefield with the understanding that the respondents, as a reward for their service, would get for themselves all the harvests for the first three years, and thereafter the harvests would be divided between them and Maximo Alfafara share and share alike, both Alfafara and respondents have acted in good faith in the honest belief that what they were doing was legal and in pursuance of the permit granted to Alfafara under the authority of the law. Having entered into that contractual relation in good faith no other conclusion can be drawn than that such contract has produced as a necessary consequence the relation of landlord and tenant so much so that the respondents worked the land only on the basis of such understanding. And this relation continued not only when Maximo Alfafara assigned his right under the permit to his son Catalino, but also when the latter died and his widow, the herein petitioner, took over and continued possessing the land as successor-in-interest of her husband. And it was only in 1946, after the death of Catalino Alfafara, that respondents got wise and, taking advantage of the helplessness of his widow, coveted the land and decided to assert their own right over it by filing their own application for homestead with the Bureau of Lands. Such a conduct cannot be regarded as one done in good faith and, in our opinion, cannot serve

as basis for a grant of public land under the ruling invoked by the Secretary of Agriculture and Natural Resources.

The possession therefore of the land by respondents should be considered as that of a tenant and in this sense that possession cannot benefit them but their landlord, the widow, in contemplation of the rule. As such, the widow should be given the preference to apply for the land for homestead purposes.

We are not unmindful of the doctrine laid down in the case of *Ortua vs. Singson Encarnacion*, 59 Phil., 440, to the effect that "a decision rendered by the Director of Lands and approved by the Secretary of Agriculture and Natural Resources, upon a question of fact is conclusive and not subject to be reviewed by the courts, in the absence of a showing that such decision was rendered in consequence of fraud, imposition or mistake, other than error of judgment in estimating the value or effect of evidence." But we hold that this doctrine does not apply here because we are not concerned with a decision of the Director of Lands which was approved by the Secretary of Agriculture and Natural Resources, but one which has been revoked. The philosophy behind this ruling is that if the decision of the Director of Lands on a question of fact is concurred in by the Secretary of Agriculture and Natural Resources, it becomes conclusive upon the courts upon the theory that the subject has been thoroughly weighed and discussed and it must be given faith and credit, but not so when there is a disagreement.¹ And even if there is unanimity in the decision, still we believe that the doctrine would not apply if the conclusions drawn by the Secretary from the facts found are erroneous or not warranted by law. These conclusions can still be the subject of judicial review. These are questions of law that are reserved to the courts to determine, as can be inferred from the following ruling laid down in the same case of *Ortua*:

"There is, however, another side to the case. It certainly was not intended by the legislative body to remove from the jurisdiction of courts all right to review decisions of the Bureau of Lands, for to do so would be to attempt something which could not be done legally. Giving force to all possible intendments regarding the facts as found by the Director of Lands, yet so much of the decision of the Director of Lands as relates to a question of law is in no sense conclusive upon the courts, but is subject to review. In other words, any action of the Director of Lands which is based upon a misconstruction of the law can be corrected by the courts." (*Shepley vs. Cowan* [1876], 91 U. S., 330; *Moore vs. Robins* [1878], 96 U. S., 530; *Marquez vs. Frisbie* [1879], 101

¹ This doctrine is based on section 4 of the Public Land Law. It provides that the decisions of the Director of Lands "as to questions of fact shall be conclusive *when approved* by the Secretary of Agriculture and (Natural Resources)."

U. S., 473; *Black vs. Jackson* [1900], 177 U. S., 349; *Johnson vs. Riddle*, *supra*.)

Wherefore, the decision appealed from is reversed. The court sets aside the decision of the Secretary of Agriculture and Natural Resources dated September 15, 1949 as well as his order dated January 3, 1950, reaffirming said decision. The court revives the decision of the Director of Lands dated March 18, 1948 and orders that it be given due course. No pronouncement as to costs.

Bengzon, Montemayor, Jugo, Labrador, and Concepcion, JJ., concur.

PARÁS, *C. J.*, dissenting:

It is true that Maximo Alfafara was granted on February 1, 1923, a permit to construct and maintain a fishpond within lot No. 741 of the Carcar cadastre, but it nevertheless appears that said permit was cancelled in 1926 after said fishpond was destroyed by a typhoon. In said year, Maximo Alfafara induced the respondents Benita Compana et al., to convert the former fishpond into a rice-land, the agreement being that the crops for the first three years would be for said respondents and that thereafter the crops would be divided equally between the former and the latter. According to the findings of the Secretary of Agriculture and Natural Resources, not contradicted in any way by those of the Director of Lands, Maximo Alfafara and his successors-in-interest never worked on the land or spent anything for the improvements thereon. The question that arises is, after the land was declared available for homestead purposes by certification of the Director of Forestry in 1949, or long after the permit of Alfafara had been cancelled, whether the Alfafaras should be preferred to those who actually worked on the land. After the cancellation of his permit, Maximo Alfafara ceased to have any right or authority to continue holding the land. Yet, he was given for several years one half of the crops harvested by the respondents who took over the land in good faith and could already occupy it in their own right. It may fairly be considered that the original holder had impliedly parted with his rights, if any, for valuable consideration. It is plainly unjust, under the circumstances, to deprive the respondents of their priority to the portions of the land actually held by them as homesteads. It appears, however, that there were occupants of other portions of the lot who did not apply for homesteads, with the result that said portions may be awarded to the Alfafaras if they are still entitled under the law.

I vote for the affirmance of the appealed decision.

Pablo, J., concurs.

Judgment reversed.

[No. L-6898. April 30, 1954]

LUIS MANALANG, petitioner, vs. AURELIO QUITORIANO, EMILIANO MORABE, ZOSIMO G. LINATO, and MOHAMAD DE VENANCIO, respondents.

1. LAW ON PUBLIC OFFICERS; REMOVAL OF PUBLIC OFFICERS.—Where the petitioner has never been commissioner of the National Employment Service, he could not have been, and has not been, removed therefrom.
2. ID.; ID.; ABOLITION OF OFFICE.—To remove an officer is to oust him from his office before the expiration of his term. A removal implies that the office *exists* after the ouster. Such is not the case of petitioner herein, for Republic Act No. 761 expressly abolished the Placement Bureau and, by implication, the office of director thereof, which petitioner held.
3. CONSTITUTIONAL LAW; ABOLITION OF BUREAU EXTINGUISHES RIGHT OF INCUMBENT TO THE OFFICE OF DIRECTOR THEREOF; NO VIOLATION OF CONSTITUTIONAL MANDATE ON CIVIL SERVICE.—Where the law expressly abolished the Placement Bureau, by implication, the office of director thereof, which cannot exist without said Bureau, is deemed abolished. By the abolition of said Bureau and of the office of its director, the right thereto of petitioner was necessarily extinguished thereby. There being no removal or suspension of the petitioner, but abolition of his former office of Director of the Placement Bureau, which is within the power of Congress to undertake by legislation, the constitutional mandate to the effect that “no officer or employee in the civil service shall be removed or suspended except for cause as provided by law” is not violated.
4. ID.; ID.; TRANSFER OF QUALIFIED PERSONNEL FROM ONE OFFICE TO ANOTHER.—Where the law abolishing the Placement Bureau explicitly provided for the transfer, among others, of the qualified personnel of the latter to the National Employment Service, such transfer connotes that the National Employment Service is different and distinct from the Placement Bureau, for a thing may be transferred only from one place to *another*, not to the same place. Had Congress intended the National Employment Service to be a mere amplification or enlargement of the Placement Bureau, the law would have directed the *retention* of the “qualified personnel” of the latter, not their *transfer* to the former.
5. ID.; ID.; ID.; NECESSITY OF NEW APPOINTMENT; EFFECT ON RIGHT OF INCUMBENT TO THE OFFICE.—Where, as it is admitted by petitioner, there is necessity of appointing Commissioner of the National Employment Service, it follows that he does not hold or occupy the latter’s item, inasmuch as the right thereto may be acquired only by appointment.
6. ID.; SCOPE OF TERM “QUALIFIED PERSONNEL”.—If the Director of the Placement Bureau were included in the phrase “qualified personnel” and, as a consequence, he automatically became Commissioner of the National Employment Service, the latter would have become organized *simultaneously* with the approval of Republic Act No. 761, and the same would not have conditioned the transfer to the Service of the “qualified personnel” of the Placement Bureau “upon the organization of the Service,” which connotes that the new office would be established at some *future* time. In common parlance, the word “personnel” is used generally to refer to the subordinate

officials or clerical employees of an office or enterprise, not to the managers, directors or heads thereof.

7. *Id.*; PUBLIC OFFICERS; POWER OF CONGRESS TO APPOINT COMMISSIONER OR NATIONAL EMPLOYMENT SERVICE; APPOINTING POWER, EXCLUSIVE PREROGATIVE OF PRESIDENT; LIMITATIONS ON POWER TO APPOINT.—Congress can not, either appoint the Commissioner of the Service, or impose upon the President the duty to appoint any particular person to said office. The appointing power is the exclusive prerogative of the President, upon which no limitations may be imposed by Congress, except those resulting from the need of securing the concurrence of the Commission on Appointments and from the exercise of the limited legislative power to prescribe the qualifications to a given appointive office.

8. *Id.*; *Id.*; RECORD OF PUBLIC SERVANT DOES NOT GRANT COURT POWER TO VEST IN HIM LEGAL TITLE; DUTY OF COURT.—Petitioner's record as a public servant—no matter how impressive it may be as an argument in favor of his consideration for appointment either as Commissioner or as Deputy Commissioner of the National Employment Service—is a matter which should be addressed to the appointing power, in the exercise of its sound judgment and discretion, and does not suffice to grant the Court, whose duty is merely to apply the law, the power to vest in him a legal title which he does not have.

ORIGINAL action in the Supreme Court. Quo warranto.

The facts are stated in the opinion of the court.

Luis Manalang in his own behalf.

Solicitor General Juan Liwag and *Assistant Solicitor General Francisco Carreon* for the respondents.

CONCEPCION, J.:

Petitioner *Luis Manalang* contests, by quo warranto proceedings, the title of the incumbent Commissioner of the National Employment Service, and seeks to take possession of said office as the person allegedly entitled thereto.

The original respondent was *Aurelio Quitoriano*, who, at the time of the filing of the petition (August 4, 1953), held said office, which he assumed on July 1, 1953, by virtue of a designation made, in his favor, as Acting Commissioner of the National Employment Service, by the Office of the President of the Philippines. Subsequently, or on October 22, 1953, petitioner included, as respondents, *Emiliano Morabe*, who, on September 11, 1953, was designated Acting Commissioner of National Employment Service, and *Zosimo G. Linato*, the Collecting, Disbursing and Property Officer of said National Employment Service—hereinafter referred to, for the sake of brevity, as the Service—in order to restrain him from paying, to respondent *Morabe*, the salary of the Commissioner of said Service. Still later, or on January 21, 1954, *Mohamad de Venancio*, who was designated Acting Commissioner of said Service, and assumed said

office, on January 11 and 13, respectively, of the same year, was included as respondent.

It appears that, prior to July 1, 1953, and for some time prior thereto, petitioner, Luis Manalang, was Director of the Placement Bureau, an office created by Executive Order No. 392, dated December 31, 1950 (46 Off. Gaz., No. 12, pp. 5913, 5920-5921), avowedly pursuant to the powers vested in the President by Republic Act No. 422. On June 20, 1952, Republic Act No. 761, entitled "An Act to Provide for the Organization of a National Employment Service," was approved and became effective. Section 1 thereof partly provides:

"* * * In order to ensure the best possible organization of the employment market as an integral part of the national program for the achievement and maintenance of maximum employment and the development and use of productive resources, there is hereby established a national system of free public employment offices to be known as the National Employment Service, hereinafter referred to as the Service. The Service shall be under the executive supervision and control of the Department of Labor, and shall have a chief who shall be known as the Commissioner of the National Employment Service hereinafter referred to as Commissioner. Said Commissioner shall be appointed by the President of the Philippines with the consent of the Commission on Appointments and shall receive compensation at the rate of nine thousand pesos *per annum*. A Deputy Commissioner shall also be appointed by the President of the Philippines with the consent of the Commission on Appointments and shall receive compensation at the rate of seven thousand two hundred pesos *per annum*."

On June 1, 1953, the then Secretary of Labor, Jose Figueras, recommended the appointment of petitioner Luis Manalang as Commissioner of the Service. On June 29, 1953, respondent Aurelio Quitariano, then Acting Secretary of Labor, made a similar recommendation in favor of Manalang, upon the ground that "he is best qualified" and "loyal to service and administration." Said Acting Secretary of Labor even informed Manalang that he would probably be appointed to the office in question. However, on July 1, 1953, Quitariano was the one designated, and sworn in, as Acting Commissioner of the Service. Such designation of Quitariano—like the subsequent designation, first, of Emiliano Morabe, and, then, of Mohamad de Venancio—is now assailed by Manalang as "illegal" and "equivalent to removal of the petitioner from office without cause."

This pretense can not be sustained. To begin with, petitioner has never been Commissioner of the National Employment Service and, hence, he could not have been, and has not been, removed therefrom. Secondly, to remove an officer is to oust him from office before the expiration of his term. A removal implies that the office

exists after the ouster. Such is not the case of petitioner herein, for Republic Act No. 761 *expressly abolished* the Placement Bureau, and, by implication, the office of director thereof, which, obviously, cannot exist without said Bureau. By the abolition of the latter and of said office, the right thereto of its incumbent, petitioner herein, was necessarily extinguished thereby. Accordingly, the constitutional mandate to the effect that "no officer or employee in the civil service shall be removed or suspended except for cause as provided by law" (Art. XII, Sec. 4, Phil. Const.), is not in point, for there has been neither a removal nor a suspension of petitioner Manalang, but an abolition of his former office of Director of the Placement Bureau, which, admittedly, is within the power of Congress to undertake by legislation.

It is argued, however, in petitioner's memorandum, that

"* * * there is no abolition but only fading away of the title Placement Bureau and *all* its functions are continued by the National Employment Service because the two titles cannot coexist. The seemingly additional duties were only brought about by the additional facilities like the district offices, Employment Service Advisory Councils, etc."

The question whether or not Republic Act No. 761 abolished the Placement Bureau is one of legislative intent, about which there can be no controversy whatsoever, in view of the explicit declaration in the second paragraph of section 1 of said Act reading:

"Upon the organization of the Service, the existing Placement Bureau and the existing Employment Office in the Commission of Social Welfare *shall be abolished*, and all the files, records, supplies, equipment, qualified personnel and unexpended balances of appropriations of said Bureau and Commission pertaining to said bureau or office shall thereupon be *transferred* to the Service." (Underscoring supplied.)

Incidentally, this transfer connotes that the National Employment Service is different and distinct from the Placement Bureau, for a thing may be transferred only from one place to *another*, not to the same place. Had Congress intended the National Employment Service to be a mere amplification or enlargement of the Placement Bureau, Republic Act No. 761 would have directed the *retention* of the "qualified personnel" of the latter, not their *transfer* to the former. Indeed, the Service includes, not only the functions pertaining to the former Placement Bureau, but, also, those of the former Employment Office in the Commission of Social Welfare, apart from other powers, not pertaining to either office, enumerated in section 4 of Republic Act No. 761.

Again, if the absorption by the Service of the duties of the Placement Bureau, sufficed to justify the conclusion that the former and the latter are identical, then

the Employment Office in the Commission of Social Welfare, would logically be entitled to make the same claim. At any rate, any possible doubt, on this point, is dispelled by the fact that, in his sponsorship speech, on the bill which later became Republic Act No. 761, Senator Magalona said:

"Como ya he dicho al caballero del Rizal, *ésta es una nueva oficina* que tiene su esfera de acción *distinta* de la de cualquiera de las divisiones de la Oficina de Trabajo. Además, como he dicho, es muy importante la creación de esta oficina, porque con ella se trata de buscar remedio para esos dos millones de desempleados filipinos que hay ahora." (Vol. III, Congressional Record, Senate, No. 56, April 23, 1952; underscoring supplied.)

It is next urged in petitioner's memorandum "that the item of National Employment Service Commissioner is not new and is occupied by the petitioner's and that the petitioner is entitled to said office "automatically by operation of law," in view of the above quoted provision of section 1 of Republic Act No. 761, relative to the transfer to the service of the "qualified personnel" of the Placement Bureau and of the Employment Office in the Commission of Social Welfare.

This contention is inconsistent with the very allegations of petitioner's pleadings. Thus, in paragraph 11 of his petition, it is alleged "that increasing the item and elaborating the title of a civil servant, although *necessitating a new appointment*, does not mean the ousting of the incumbent or declaring the item vacant." In paragraph 12 of the same pleading, petitioner averred that "on or about June 25, 1953, two days before the departure of President Quirino to Baltimore, petitioner wrote a confidential memorandum to His Excellency reminding him of the *necessity of appointing anew* the petitioner as head of the National Employment Service."

Having thus admitted—and correctly—that he needed a *new appointment* as Commissioner of the National Employment Service, it follows that petitioner does not hold—or, in his own words, occupy—the latter's item, inasmuch as the right thereto may be acquired only by appointment. What is more, Republic Act No. 761 requires specifically that said appointment be made by the President of the Philippines "with the consent of the Commission on Appointments." How could the President and the Commission on Appointments perform these acts if the Director of the Placement Bureau automatically became Commissioner of the National Employment Service?

Neither may petitioner profit by the provision of the second paragraph of section 1 of Republic Act No. 761, concerning the transfer to the Service of the "qualified personnel" of the Placement Bureau and of the Em-

ployment Office in the Commission of Social Welfare, because:

1. Said transfer shall be effected only "upon the organization" of the National Employment Service, which does not take place until *after* the appointment of, at least, the commissioner thereof. If the Director of the Placement Bureau were included in the phrase "qualified personnel" and, as a consequence, he automatically became Commissioner of the Service, the latter would have become organized simultaneously with the approval of Republic Act No. 761, and the same would not have conditioned the aforementioned transfer "upon the organization of the Service," which connotes that the new office would be established at some future time. Indeed, in common parlance, the word "personnel" is used generally to refer to the subordinate officials or clerical employees of an office or enterprise, not to the managers, directors or heads thereof.

2. If "qualified personnel" included the heads of the offices affected by the establishment of the Service, then it would, also, include the chief of the Employment Office in the Commission of Social Welfare, who, following petitioner's line of argument, would like petitioner herein, be, also, a Commissioner of the National Employment Service. The result would be that we would have either two commissioners of said Service or a Commission thereof consisting of two persons—instead of a Commissioner—and neither alternative is countenanced by Republic Act No. 761.

3. Congress can not, either appoint the Commissioner of the Service, or impose upon the President the duty to appoint any particular person to said office. The appointing power is the exclusive prerogative of the President, upon which no limitations may be imposed by Congress, except those resulting from the need of securing the concurrence of the Commission on Appointments and from the exercise of the limited legislative power to prescribe the qualifications to a given appointive office.

Petitioner alleges in paragraph 2 of his petition, which has been admitted by the respondents:

"That he started as clerk in 1918 in the Bureau of Labor by reason of his civil service second grade eligibility; that he was appointed public defender, Incharge of the Pampanga Agency, in 1937 likewise, as a result of his civil service public defender eligibility and has successively held the positions of Chief of Social Improvement Division, Senior Assistant in the Office of the Secretary of Labor, Chief of the Wage Claims Division, Attorney of Labor (Incharge of Civil Cases), Chief of the Administrative Division, Chief of the Labor Inspection Division and Director of the Placement Bureau, also under the Department of Labor."

THE MANY YEARS spent by petitioner in the service of the Government have not escaped the attention of the Court. For this reason, we have even considered whether or not he should be held entitled to the position of Deputy Commissioner of the National Employment Service, which carries a compensation of ₱7,200, *per annum*, identical to that of Director of the Placement Bureau. However, it is our considered opinion that we can not make said finding, not only because the office of Deputy Commissioner of the National Employment Service is beyond the pale of the issues raised in this proceedings, which are limited to the position of Commissioner of said Service, but, also, because the reasons militating against petitioner's claim to the latter position, apply equally to that of Deputy Commissioner. At any rate, petitioner's record as a public servant—no matter how impressive it may be as an argument in favor of his consideration for appointment either as Commissioner or as Deputy Commissioner of the Service—is a matter which should be addressed to the appointing power, in the exercise of its sound judgment and discretion, and does not suffice to grant the Court, whose duty is merely to apply the law, the power to vest in him a legal title which he does not have.

Wherefore, the petition is hereby dismissed and the writ prayed for denied, without costs.

Pablo, Bengzon, Reyes, Jugo, Bautista Angelo, and Labrador, JJ., concur.

Padilla, J., did not take part.

MONTEMAYOR, *J.*, concurring:

I fully concur in the learned opinion of Mr. Justice Concepcion. Its legal considerations and conclusions are based on and supported by the law which sometimes is harsh (*dura lex*), as it now has turned out to be with respect to petitioner.

Considering all the circumstances surrounding this case, I am convinced, and from what I could gather from the discussion during our deliberations, even my respected colleagues or many of them, agree with me that all the equities are with the petitioner. He fully and truly deserved a high and important office in the National Employment Service. Not only did he, for many years, prepare himself for the special and technical service to direct or assist direct the functions and activities of the National Employment Service, by his previous training and experience, but the Government itself prepared him for said service by sending him abroad to study and observe social legislation and employment, and later on his return even

had him assist in the drafting of the very legislation that abolished his office of Director of Placement Bureau and created the National Employment Service. There is every reason to believe that at the time, petitioner was intended to head the new office or at least, be one of its chief officials, and he was given that understanding and expectation. Unfortunately, however, through a quirk of Fate and at the last hour, he was not appointed. Result—he lost his chance; and what is worse, he lost his civil service post which was abolished, all through no fault on his part.

This short concurring opinion is never intended to embarrass or serve as a reflection on the appointing power, particularly the present administration, which is not to blame. If a suitable post, preferably in his line, could be found for petitioner, a wrong would be righted, the harshness of the law softened and tempered, and the interests of justice and equity served.

Parás, C. J., and Bautista Angelo, JJ., concur.

Petition dismissed.

DECISION OF THE ELECTORAL TRIBUNAL OF THE HOUSE OF REPRESENTATIVES

[ETHR No. 23. December 27, 1951]

ESTANISLAO A. FERNANDEZ, protestant, *vs.* JUAN A. BAES,
protestee

1. ELECTION PROTESTS; ANNULMENT OF ELECTION, WHEN NOT PROPER;
GENERAL RULE.—“The power to avoid or annul an election should be exercised with the greatest care and circumspection and only in extreme cases of fraud and under circumstances which demonstrate beyond doubt and to the fullest degree a fundamental and wanton disregard of the law, sufficient in extent to change the result, and which is so persistent and so grave that it is impossible to distinguish the legal from the illegal votes, or to arrive at any certain result whatsoever.” (*Ombra vs. Rasul*, ETHR No. 38, May 5, 1951.)
2. ID.; ID.; TAMPERING OF BALLOTS AND BALLOT BOX.—Although the ballot box from a precinct, as well as its contents, had been violated and tampered with, yet if the disputed ballots have been preserved and examined by the Electoral Tribunal and satisfactory evidence has been adduced in regard to their true contents before they were tampered with, the election return should not prevail over the ballots themselves in determining the true result of the voting in the precinct.
3. ID.; ID.; VOTES FROM LEPROSARIA.—The proviso of the second paragraph of section 15 of the Election Code (in force on November 8, 1949 but repealed by Republic Act No. 599) evidently admits the possibility of the communication about voting results in the leprosaria not being received by the board of inspectors on time, in which case it would obviously be impossible for the election inspectors to include it in its canvass. But this non-inclusion should not permit the disenfranchisement of innocent voters who, by reason of sickness, were by law required to be confined in a leprosarium and allowed to cast their votes there. Due regard should, in an election protest, be given to those votes.
4. ID.; ID.; VOTES OF MINORS.—A minor who succeeds in registering as a voter and who actually votes in an election subjects himself to criminal prosecution for illegal registration and voting under section 140 of the Election Code, but his ballot will have to be counted if there is no sufficient evidence identifying the ballot cast by the alleged minor. Besides, the registry list as finally corrected by the board of inspectors is “conclusive in regard to the question as to who had the right to vote in said election”. (Sec. 176-*f*, Election Code.)
5. ID.; ID.; VOTERS HAVING SAME NAME.—Although the registry lists from certain precincts of a municipality show that several names are entered therein more than once and each entry has been allotted a ballot, showing that the person bearing that name had voted, yet if according to the evidence the several names that appear more than once in those lists actually belonged to distinct and different persons who only happened to have the same name, that is no ground for annulment of the election in those precincts.
6. ID.; ID.; BALLOTS PREPARED BY ONE PERSON.—Ballots prepared by one hand will have to be annulled, but the overall results

of the election must remain, otherwise ballots legally prepared will be discarded and innocent voters disenfranchised.

7. ID.; ID.; DEAD AND ABSENT VOTERS.—Although certain dead and absent persons during the election appear in the registry list of voters in a precinct to have voted therein, yet if the ballots cast by said dead and absent voters have not been identified and said irregularity is not serious enough to warrant the disenfranchisement of the large majority of the voters who prepared and cast their ballots according to law, it would not be justifiable to annul the election in the affected precinct.

ORIGINAL ACTION filed with the Electoral Tribunal of the House of Representatives. Election protest.

The facts are stated in the opinion of the Tribunal.

Fernandez & Salazar for protestant.

Marcelino Lontok and *Angel M. Tesoro* for protestee.

LAUREL, M.:

In the elections held on November 8, 1949, there were three candidates for Representatives for the Second District of Laguna, namely: Estanislao A. Fernandez, official candidate of the Liberal Party; Juan A. Baes, official candidate of the Avelino Wing of the Liberal Party; and Ricardo Montanano, official candidate of the Nacionalista Party. On November 11, 1949, the Provincial Board of Canvassers of Laguna, having finished the canvass of the votes cast for said office in said election, proclaimed Juan A. Baes as Representative-elect for the Second District of Laguna, with 11,724 votes, as against 11,717 votes for Estanislao A. Fernandez, or a plurality of 7 votes. The canvass showed that Ricardo Montanano obtained 7,831 votes (Exhibit H-1).

On November 23, 1949, Estanislao A. Fernandez filed with this Tribunal a protest against Juan A. Baes, impugning the returns of the election from the municipalities of Famy, Longos, Lumban, Pakil, Pangil, Paete, Siniloan, Mabitac, except Precinct 4 thereof, and Sta. Cruz, except Precincts 11 and 12 thereof.

Within the time prescribed by the rules, Juan A. Baes filed his answer in which he interposed a counterprotest, impugning the election returns from the municipalities of Cavinti, Lilio, Luisiana, Magdalena, Pagsanjan, Nagcarlan, Rizal, Sta. Maria, Precinct 4 of Mabitac, Precincts 11 and 12 of Sta. Cruz, and Precincts 3, 5, 6, 8, 9, 10 and 11 of Majayjay.

On April 25, 1950, the protestee moved to withdraw his counter-protest as to all the precincts of Luisiana, except Precincts 2 and 4; Precinct 4 of Mabitac; all precincts of Magdalena, Majayjay and Sta. Cruz; all the precincts of Sta. Maria, except Precincts 1 and 4; and all the precincts of Cavinti, except Precincts 4 and 5. On April 26, 1950, the protestant moved to withdraw his

protest as to Precincts 17, 18 and 24 of Sta. Cruz. The withdrawals were approved by this Tribunal in its resolution of April 29, 1950.

Ricardo Montanano has not joined the case.

The Second District of Laguna is composed of the following eighteen municipalities: Cavinti, Famy, Lilio, Longos, Luisiana, Lumban, Mabitac, Magdalena, Majayjay, Nagcarlan, Paete, Pagsanjan, Pakil, Pangil, Rizal, Sta. Cruz, Sta. Maria, and Siniloan.

Both parties agree that the following are the municipalities and precincts which are neither protested nor counter-protested, with the number of votes respectively obtained by them:

	FERNANDEZ BAES	
Magdalena—Total	292	105
Majayjay—Total	451	260
Luisiana:		
Precinct 1	123	34
Precinct 3	72	53
Precinct 5	92	5
Precinct 6	77	15
Precinct 7	70	61
Precinct 8	51	20
Precinct 9	51	39
Total	536	227
Sta. Maria:		
Precinct 2	82	56
Precinct 3	89	73
Precinct 5	48	34
Precinct 6	64	39
Total	283	202
Cavinti:		
Precinct 1	58	10
Precinct 2	23	28
Precinct 3	42	29
Precinct 6	64	40
Precinct 7	83	68
Precinct 8	48	42
Precinct 9	78	17
Total	396	234
Mabitac:		
Precinct 4	73	28
Sta. Cruz:		
Precinct 11	121	37
Precinct 12	127	77
Precinct 17	90	66
Precinct 18	53	45
Precinct 24	57	48
Total	458	273
Grand Totals	2,489	1,329

We shall, therefore, start with the proposition that 2,489 votes adjudicated to the protestant are not questioned by the protestee, while 1,329 votes adjudicated to the protestee are not questioned by the protestant.

Laying aside the precincts as to which the protest has been withdrawn, the parties agree that the following are the municipalities and precincts covered by the protest with the number of votes respectively adjudicated to them by the Provincial Board of Canvassers of Laguna, upon the basis of corresponding election returns:

		FERNANDEZ BAES	
FAMY			
Precinct 1	.....	62	36
Precinct 2	.....	62	33
Precinct 3	.....	115	44
Total	.....	239	113
LONGOS			
Precinct 1	.....	47	40
Precinct 2	.....	103	11
Precinct 3	.....	175	8
Precinct 4	.....	200	14
Precinct 5	.....	75	4
Precinct 6	.....	91	57
Total	.....	691	134
LUMBAN			
Precinct 1	.....	65	60
Precinct 2	.....	115	83
Precinct 3	.....	93	67
Precinct 4	.....	118	33
Precinct 5	.....	171	62
Precinct 6	.....	126	52
Precinct 7	.....	138	34
Precinct 8	.....	99	77
Precinct 9	.....	132	53
Precinct 10	.....	108	17
Precinct 11	.....	125	1
Total	.....	1,290	539
MABITAC			
Precinct 1	.....	90	37
Precinct 2	.....	77	61
Precinct 3	.....	108	44
Total	.....	275	142
PAKIL			
Precinct 1	.....	223	14
Precinct 2	.....	172	13
Precinct 3	.....	182	11
Precinct 4	.....	107	77
Precinct 5	.....	89	5
Total	.....	773	120

PANGIL

Precinct 1	115	26
Precinct 2	142	26
Precinct 3	119	13
Precinct 4	161	8
Precinct 5	254	22
Precinct 6	45	1
Total	836	96

PAETE

Precinct 1	247	17
Precinct 2	330	6
Precinct 3	215	31
Precinct 4	155	7
Precinct 5	206	11
Precinct 6	210	12
Precinct 7	138	6
Precinct 8	177	7
Precinct 9	265	3
Total	1,943	100

SINILOAN

Precinct 1	107	66
Precinct 2	113	78
Precinct 3	112	60
Precinct 4	143	32
Precinct 5	143	37
Precinct 6	86	32
Precinct 7	51	49
Precinct 8	27	64
Total	782	418

STA. CRUZ

Precinct 1	175	58
Precinct 2	125	83
Precinct 3	127	44
Precinct 4	138	57
Precinct 5	159	26
Precinct 5a	144	35
Precinct 6	183	30
Precinct 7	143	37
Precinct 8	190	51
Precinct 9	156	45
Precinct 10	185	34
Precinct 13	217	32
Precinct 14	187	33
Precinct 15	64	3
Precinct 16	56	23
Precinct 19	128	9
Precinct 20	174	16
Precinct 21	140	44
Precinct 22	176	99
Precinct 23	86	41

Total	2,953	800
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Grand Totals	9,782	2,462
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Laying aside also the municipalities and precincts as to which the counter-protest has been withdrawn, the parties likewise agree that the following are the municipalities and precincts covered by the counter-protest, with the number of votes respectively adjudicated to them by the same Board of Canvassers, on the basis of the corresponding returns:

CAVINTI		BAES FERNAN- DEZ	
Precinct 4	.....	27	149
Precinct 5	.....	14	150
Total	.....	41	299

LILIO			
Precinct 1	.....	6	200
Precinct 2	.....	11	207
Precinct 3	.....	7	252
Precinct 4	.....	6	195
Precinct 5	.....	13	180
Precinct 6	.....	13	216
Precinct 7	.....	15	154
Precinct 8	.....	9	228
Precinct 9	.....	9	144
Precinct 10	.....	7	144
Precinct 11	.....	8	157
Precinct 12	.....	5	157
Total	.....	109	2,256

LUISIANA			
Precinct 2	.....	51	101
Precinct 4	.....	13	22
Total	.....	64	123

NAGCARLAN			
Precinct 1	.....	0	53
Precinct 2	.....	3	39
Precinct 3	.....	3	25
Precinct 4	.....	2	56
Precinct 5	.....	3	91
Precinct 6	.....	0	18
Precinct 7	.....	0	30
Precinct 8	.....	1	164
Precinct 9	.....	7	35
Precinct 10	.....	7	25
Precinct 11	.....	0	50
Precinct 12	.....	1	80
Precinct 13	.....	5	123
Precinct 14	.....	2	83
Precinct 15	.....	4	42
Precinct 16	.....	4	64
Precinct 17	.....	1	78
Precinct 18	.....	1	110
Precinct 19	.....	6	51
Precinct 20	.....	0	48
Precinct 21	.....	0	64

Precinct 22	7	69
Precinct 23	5	53
Total	62	1,451
PAGSANJAN		
Precinct 1	40	127
Precinct 2	31	46
Precinct 3	19	187
Precinct 4	31	200
Precinct 5	34	179
Precinct 6	14	140
Precinct 7	27	217
Precinct 8	8	124
Precinct 9	10	144
Precinct 10	7	119
Precinct 11	4	101
Precinct 12	19	91
Total	244	1,675
RIZAL		
Precinct 1	11	165
Precinct 2	2	203
Precinct 3	12	197
Precinct 4	7	150
Total	32	715
STA. MARIA		
Precinct 1	51	119
Precinct 4	10	128
Total	61	247
Grand Totals	613	6,766

The foregoing figures are accepted by both parties in their memoranda and are supported by the documentary evidence of record.

Both parties having alleged fraud and irregularities in the conduct of the election, in the appreciation and counting of the votes by the election inspectors, and in the preparation of their returns, this Tribunal ordered the opening of the ballot boxes involved and the examination of their contents, and for that purpose we appointed, upon motion of protestant, eight sets of Commissioners on Revision. Each set was composed of three members, two of whom were proposed by each of the parties and the third, who acted as Chairman, was chosen by the Tribunal. The Commissioners submitted two reports, one covering the protest (Exhibit J), and the other covering the counter-protest (Exhibit N).

After the submission of these reports and upon motion of the protestant, the Tribunal authorized the parties to open for the second time the ballot boxes covered by the protest and counter-protest, for the purpose of giving them

an opportunity to examine and study for themselves the disputed ballots and other pertinent documents. Our purpose in so doing was to enable the parties to discuss their respective objections to specified ballots, and to reduce such objections to the minimum, thereby facilitating the early termination of the case.

We shall now consider the disputed ballots covered by the

PROTEST

MUNICIPALITY OF LUMBAN

Precinct 1:

According to the election return from this precinct, the protestant obtained 60 votes while the protestee obtained 65 votes. During the revision, protestant claimed 64 ballots in his favor while the protestee claimed 66 ballots in his favor. Of the ballots claimed by the protestee, two were originally objected to by the protestant, namely, Exhibits F and F-1, because what is voted thereon for Representatives is "Base J." This ballot is admitted as a valid vote for the protestee.

Exhibit F is rejected because the protestee is voted for therein as Senator.

Seven ballots claimed by the protestant, marked Exhibits B, B-1 to B-6, are objected to by the protestee.

Exhibits B, B-4, B-5 and B-6 are admitted as valid votes for protestant. In Exhibit B, the word "Liberal" is written within the rectangle reserved for block-voting. In Exhibit B-4, "E. Feandis", which is *idem sonans* with protestant's name, is voted for Representative. In Exhibit B-5, "Etanords", which is *idem sonans* with the protestant's Christian name "Estanislao", is voted for Representative. According to paragraphs 1 and 2 of section 149 of the Revised Election Code, a Christian name incorrectly written which, when read, has a sound equal or similar to that of the real name of a candidate shall be counted in his favor. It should be noted that in the disputed election there was no other candidate for the same office with the same or similar Christian name as that of the protestant. Exhibit B-6 is admitted under paragraph 4, section 149 of the Revised Election Code, because the voter, after evidently committing a mistake in writing the name "Justiniano" in the space for Representative, cancelled the same and then wrote "Fernandis".

The protestant has waived his claim to Exhibits B-1, B-2, and B-3, and they are rejected because the protestant is voted for therein for Vice-President.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	57	Uncontested	64
Admitted	4	Admitted	1
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Total	61	Total	65

Precinct 2:

According to the election return from this precinct, the protestant obtained 83 votes while the protestee obtained 115 votes. In the revision, the protestant claimed the same number of votes, while the protestee claimed 116 votes in his favor.

Nineteen ballots, marked Exhibits F-1 to F-19, were originally objected to by the protestant who later waived his objection to Exhibits F-1 to F-9, F-12, F-16 and F-17. All these nineteen ballots, except Exhibit F-19, are admitted in favor of the protestee.

Exhibits F-10 and F-11 were written each by a different hand, contrary to the contention of the protestant. Exhibit F-13 is not invalidated by the mere fact that in the 5th space for Senator the name "Juan Sacop" appears written. (See paragraph 13, section 149, Revised Election Code.)

As to Exhibit F-14, the appearance of a big dot forming a circle between "Juan" and "Baes" in the space for Representative does not constitute a distinguishing mark. As to Exhibit F-15, the fact that Estanislao Fernandez is voted on the 8th space for Senator does not invalidate the whole ballot, as under the law such a vote for Senator will be merely considered as a stray vote. As to Exhibit F-18, we hold that the name "Juana Baes" written on the space for Representative is a valid vote for the protestee under the rule of *idem sonans*.

Exhibit F-19 is rejected because what is written in the space for Representative is "Jose Baes", a name entirely different from that of the protestee. In *Vizarra vs. Clarin*, Election Case No. 7, we held that "Juse Clarin" was not a valid vote for Luis Clarin.

Nine ballots, marked Exhibits B-1 to B-9, claimed by the protestant are objected to by the protestee. All these ballots, except Exhibit B-2, are admitted in favor of the protestant.

Exhibit B-2 is rejected as a marked ballot, the distinguishing mark consisting of the word "Tabia" written by the voter after Abada in the space for Senator. It should be noted that the Christian name of Abada is Esteban, and his full name appears printed on the top of the ballot as a Liberal Party candidate for Senator. The writing by the voter of the word "Tabia" cannot be construed as an innocent mistake, but must have been for no other purpose than to identify his vote.

Exhibit B-1, objected to as written by two persons, is admitted, it appearing that only one hand wrote the same.

Exhibit B-3, objected to as illegible, is admitted, the word "Biberal" written in the space for political party being *idem sonans* with Liberal.

Exhibit B-4, objected to as illegible, is likewise admitted, the name written in the space for Representative being "Ferndes" which is *idem sonans* with Fernandez.

Exhibit B-5, objected to as illegible, is likewise admitted, the name "E. Ferndes" written in the space for Representative being *idem sonans* with the protestant's name.

Exhibits B-6 and B-7, Exhibits B-8 and B-9, objected to as written each group by the same hand, are admitted, it appearing on the face of the ballots that each had been prepared by a different hand.

Additional ballot, marked Exhibit F-20, is claimed by the protestant from the box for valid ballots. In the space for Representative in this ballot, we read the word "Lunades". This ballot is admitted in favor of the protestant under the rule of *idem sonans*.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	74	Uncontested	97
Admitted	9	Admitted	18
<hr/>		<hr/>	
Total	83	Total	115

Precinct 3:

According to the election return from this precinct, the protestant obtained 67 votes while the protestee obtained 93 votes. No objection is raised against any of the ballots adjudicated to the protestee. But he claims in this instance two additional ballots, marked Exhibits B-5 and B-6, which had been found inside the box for spoiled ballots and marked spoiled at the back. These ballots are rejected, the presumption that they are really spoiled not having been destroyed by evidence of any sort.

Four ballots, marked Exhibits B-1 to B-4, claimed by the protestant are objected to by the protestee. All these ballots are admitted as valid votes for the protestant. The objection that Exhibit B-1 is illegible is untenable because the name "E. Fernandez" appears written in the proper space for Representative.

As to Exhibits B-2, B-3 and B-4, we find no distinguishing mark thereon, and the handwriting on each ballot is different one from the other.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	63	Uncontested	93
Admitted	4	Admitted	0
<hr/>		<hr/>	
Total	67	Total	93

Precinct 4:

According to the election return from this precinct, the protestant obtained 33 votes while the protestee obtained 118 votes. In this instance, the protestant claims an additional ballot, marked Exhibit F-7, while the protestee claims 5 additional ballots, marked Exhibits B-2 to B-6. Exhibits F-7, and B-2 to B-6 are rejected as stray votes, the names of the corresponding candidates having been written in wrong spaces.

The protestant originally objected to 7 ballots claimed by the protestee, marked Exhibits F, F-1 to F-6. Objection has been waived as to Exhibits F, F-4, F-5 and F-6. These ballots are admitted.

Exhibit F-1, objected to as written by two persons, is admitted, the handwriting thereon being that of only one person.

Exhibit F-2 is rejected as written by two persons.

Exhibit F-3 is admitted. The name voted thereon for Representative may be read as "Baes". The handwriting appears to be that of a poor scribe, which accounts for the irregularity in the letters forming the name voted for.

Two ballots claimed by the protestant, marked Exhibits B and B-1, and objected to by the protestee are admitted. The erasures on Exhibit B appearing in the spaces for President and Vice-President do not constitute distinguishing marks under paragraph 4, section 149 of the Revised Election Code. The objection to Exhibit B-1 that it has been prepared by two persons is not tenable, because the handwriting thereon is uniform and shows that only one hand prepared it.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	31	Uncontested	111
Admitted	2	Admitted	6
<hr/>		<hr/>	
Total	33	Total	117

Precinct 5:

According to the election return from this precinct, the protestant obtained 62 votes while the protestee obtained 171 votes. During the revision, the protestant claimed 63 ballots while the protestee claimed 176 ballots.

Fourteen ballots claimed by the protestee, marked Exhibits F, F-1 to F-13, were originally objected to by the protestant, who later waived objected to Exhibits F-5,

F-7, F-8 and F-12. These ballots are admitted as valid votes for the protestee.

Exhibits F, F-1 to F-4 are rejected as stray votes, the protestee's name having been written in the wrong spaces.

Exhibit F-13 has been written by two hands, one writing the protestee's name while the other writing "Elpidio Kekenó". This ballot is rejected.

Exhibit F-6, objected to as written by more than one hand, is admitted. We find that the names appearing thereon have been written by only one person.

Exhibit F-9, objected to as illegible, and F-10, alleged to have been prepared by two hands, are likewise admitted.

Exhibit F-11, objected to as a marked ballot, is likewise admitted. The two big "Xs" appearing on the top of the ballot, by themselves alone, and without any other evidence showing the intention of the voter to identify this ballot, do not constitute a distinguishing mark.

Three ballots, marked Exhibits B, B-1 and B-2, claimed by the protestant, are objected to by the protestee.

Exhibit B, claim as to which has been waived by the protestant in his memorandum, is rejected, the protestant's name having been written in the space for Vice-President.

Exhibit B-1 is likewise rejected, the name voted therein for Representative being illegible. The protestant suggests that the disputed word may be read as "Persalines" and contends that it is *idem sonans* with his surname; but the Tribunal is unable to read said word as suggested.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	60	Uncontested	162
Admitted	1	Admitted	8
Total	61	Total	170

Precinct 6:

According to the election return from this precinct, the protestant obtained 52 votes while the protestee obtained 126 votes. During the revision, the protestant claimed 56 ballots while the protestee claimed 131 ballots.

Twelve ballots, marked Exhibits F, F-1 to F-11, claimed by the protestee are objected to by the protestant. The protestant, however, has waived his objection to Exhibits F-7 to F-10. These four ballots are, therefore, admitted in favor of the protestee.

Exhibits F, F-1 and F-2 are rejected as stray votes, the protestee's name having been written in wrong spaces.

Exhibits F-3 and F-4 are likewise rejected, because only the initials "J. B." are written in the space for Rep-

representative. (See paragraph 15, section 149, Revised Election Code.)

Exhibits F-5 and F-6 are likewise rejected because the protestee's name appears written in the space for Vice-President.

Exhibit F-11, objected to as written by more than one hand, is admitted. The handwriting appearing on this ballot shows it to have been prepared by only one person.

Exhibits B, B-1 and B-2, objected to as illegible, are admitted, the name appearing therein being *idem sonans* with the protestant's name.

Exhibit B-3 is rejected, the name appearing in the space for Representative being "A. Pudes" which is a name distinct from that of the protestant.

Exhibits B-4 and B-5, claim as to which has been waived by the protestant in his memorandum, are rejected, his name having been written in the wrong space.

Exhibits B-6 to B-15, objected to as prepared each by two persons, are admitted, the objection being without basis from the appearance of the ballots themselves.

Both parties claimed one ballot found inside the box for valid ballots and marked Exhibit F-16 for the protestant and Exhibit B-16 for the protestee. On this ballot, the surnames "Baes Fernandez" are written on the space for Representative. This ballot is inadmissible for either party.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	39	Uncontested	119
Admitted	13	Admitted	5
<hr/>		<hr/>	
Total	52	Total	124

Precinct 7:

According to the election return from this precinct, the protestant obtained 34 votes and the protestee obtained 138 votes. When the ballot boxes from this precinct were opened, the protestant claimed 46 ballots, while the protestee claimed 124 ballots.

During the revision, 10 ballots claimed by the protestee were objected to by the protestant, marked Exhibits F-1 to F-10.

Exhibits F-7, F-8, F-9 and F-10 contain valid votes for the protestee and are admitted. Exhibit F-6 is likewise admitted as a valid vote in favor of the protestee inasmuch as the name of the party to which the protestee belonged appears in the space for block voting.

Exhibits F-1, F-2, F-3, F-4 and F-5 are rejected, the protestee's name having been written in the corresponding spaces for Vice-President.

Forty-six ballots claimed by the protestant, marked Exhibits B-11 to B-56, are objected to by the protestee. All these exhibits are admitted in favor of the protestant, except Exhibit B-29, which is rejected as a stray vote, the protestant's name having been written in the space for Vice-President.

The protestee claims 10 additional ballots marked Exhibits B-1 to B-10. On all of them, protestee's name has been written in the wrong space. These ballots are rejected.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	0	Uncontested	114
Admitted	45	Admitted	5
<hr/>		<hr/>	
Total	45	Total	119

Precinct 8:

According to the election return from this precinct, the protestant obtained 77 votes while the protestee obtained 99 votes. During the revision, 8 ballots claimed by the protestee and marked Exhibits F, F-1, F-2, F-3, F-11 to F-14, were objected to by the protestant. In this instance, protestant waives objection to Exhibit F-3 on which the words "Rebera Abelino" are written in the space for block-voting. This ballot is admitted under the rule of *idem sonans*.

Exhibits F-11 to F-14, containing the name of the protestee, sometimes poorly and defectively written and against which objection has been waived by the protestant, are hereby admitted.

Exhibits F and F-1, on which the words "Avelino Wing" are written in the space for block-voting, are objected to by the protestant on the ground that they do not identify the political party to which the protestee belonged. These ballots are admitted.

Exhibit F-2, objected to as written by more than one person, is admitted, the objection being unfounded.

Seven ballots, marked Exhibits B, B-8, B-9, B-10, B-11, B-12, and B-13, claimed by the protestant, are objected to by the protestee.

Exhibit B is rejected as written by more than one person.

Exhibit B-8, claimed by the protestant, is objected to by the protestee on the ground that the person voted for therein is "F. Fernandez". This ballot is admitted under paragraph 6, section 149 of the Revised Election Code.

Exhibit B-9 is objected to as illegible. This ballot is admitted as the name written in the proper space for Representative may be read as "Fernandez".

Exhibit B-10 is objected to as marked in view of the presence of fingerprints at the back thereof. This ballot is admitted, as said prints appear to have been accidentally placed thereon.

Exhibit B-11 is admitted, the name written in the space for Representative being "E. A. Fernando", which is *idem sonans* with the protestant's name, his surname being somewhat incomplete.

Exhibit B-12, objected to as marked ballot, is admitted. The fingerprints at the back thereof do not constitute distinguishing marks.

Exhibit B-13, objected to as illegible, is admitted. In the space for Representative can be read the name "E. Fernandez".

During the revision, one additional ballot, marked Exhibit F-4 and also as Exhibit B-2, was claimed by the protestant. In this ballot, the name of the protestant was written in the column of official candidates of the Nacionalista Party, below the printed name of Ricardo Montanano. The proper space for Representative is blank. The majority of the members of this Tribunal voted to admit this ballot.

The protestee claims an additional ballot, marked Exhibit B-1 and also as Exhibit F-5, on which the voter wrote "Leberal Party Avelino Wing" in the space for block-voting, but at the same time wrote "Esteban Abada" and "Macario Peralta" in the first two spaces for Senators, indicating the desire of the voter to abandon block-voting. Paragraph 20, section 149, of the Revised Election Code clearly provides that if a voter should vote for individual candidates for national offices, only the individual candidates voted for by him shall be credited with the corresponding votes even if the voter had written on the corresponding space the name of a political party which had nominated official candidates.

Exhibits F-6, F-7 and F-8, also marked Exhibits B-3, B-4 and B-5, are claimed by the protestant and found in the red box are rejected, there being no evidence that they were deposited in said box by mistake. In the case of Exhibit F-8 (B-5), the word "Spoiled" appears on the reverse side thereof and its coupon No. 4095 was still attached to it. In Exhibits F-6 (B-3) and F-7 (B-4), the word "Liberal" was not written in the proper space for block-voting but in the column of official candidates of the Liberal Party.

Two other ballots taken from the box for spoiled ballots, marked Exhibits B-6 and B-7, and also as F-9 and

F-10, are claimed by the protestee. These ballots are likewise rejected. It appears from the list of voters in this precinct that voter Anastacia Llanes was first given ballot Exhibit B-6 and then given another ballot No. 4053. According to the same list of voters, voter Jose Ladanga was first given ballot Exhibit B-7 and then given another ballot bearing No. 4035.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	70	Uncontested	91
Admitted	7	Admitted	8
<hr/>		<hr/>	
Total	77	Total	99

Precinct 9:

According to the election return from this precinct, the protestant obtained 53 votes while the protestee obtained 132 votes. During the revision, the revisors credited the protestant with the same number of votes, but credited the protestee with only 125 votes.

In the revision, 6 ballots claimed by the protestee marked Exhibits F, and F-1 to F-5, were objected to by the protestant. Objection has been withdrawn with respect to Exhibits F-1, F-2 and F-4. These ballots are admitted. Exhibit F, objected to as written by more than one hand, is admitted, the objection being without basis. Exhibit F-3, objected to as illegible, is likewise admitted. The name "J. Baas" appears written in the proper space. The voter's only error consists in writing "a" instead of "e" before the letter "s". Exhibit F-5, objected to as not identifying the political party voted for, is admitted in favor of the protestee under the rule of *idem sonans*. In the space for block-voting the words "Arelimo Lebrd" have been written.

Four ballots claimed by the protestant, marked Exhibits B, B-1, B-2 and B-13, are objected to by the protestee.

Exhibit B is admitted as the name "E. Fernandez" is properly written in the space for Representative.

Exhibits B-1 and B-2 are likewise admitted in favor of the protestant whose name appears clearly written thereon in the proper space.

Exhibit B-13, objected to on the ground that its corresponding coupon No. 4660 had not been thumbmarked by the voter, is admitted in favor of the protestant. In the first place, there is no sufficient proof that coupon No. 4660 corresponds to this ballot. In the second place, assuming that it does, the failure of the voter to affix his thumbmark thereon does not invalidate his vote. It is true that under section 137 of the Revised Election Code, each voter is required to affix his thumbmark on the coupon

corresponding to his ballot after accomplishing the same. However, it is an established doctrine of the Supreme Court that election requirements such as this, while they may be construed as mandatory before the election, are generally held to be directory thereafter. (*See Lino Luna vs. Rodriguez*, 29 Phil., 208; *Angeles vs. Rodriguez*, 46 Phil., 595.)

One ballot, marked Exhibit F-6, was originally claimed by the protestant. He, however, waived his claim there-to in his memorandum. This ballot is rejected, it appearing that the protestant's name has been written in one of the spaces for Senator.

The protestee claims 10 additional ballots, marked Exhibits B-2 to B-12. These ballots are rejected, the protestee having been voted for in the wrong spaces.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	49	Uncontested	119
Admitted	4	Admitted	6
Total		Total	
53		125	

Precinct 10:

According to the election return from this precinct, the protestant obtained 17 votes while the protestee obtained 108 votes. The revisors credited the protestant with the same number of votes, but reduced the protestee's votes to 107.

Twelve ballots, marked Exhibits F, F-1 to F-11, claimed by the protestee, were originally objected to by the protestant. Objection to Exhibits F, F-1, F-2, F-8, F-9, F-10 and F-11, has, however, been withdrawn by the protestant. These ballots are admitted in favor of the protestee whose name sometimes poorly written, appears in the proper space for Representative.

Exhibit F-3 is admitted, the words written in the space for Representative being readable as "Jaes Bo" or "Gaes Bo", which are *idem sonans* with the protestee's name.

Exhibits F-4, F-5, F-6 and F-7, each and every one of which has been objected to as written by two persons, are admitted, the objection being without basis.

Two ballots claimed by the protestant, marked Exhibits B and B-11, are objected to by the protestee.

Exhibit B, objected to as written by two different persons, is admitted, the objection being untenable.

Exhibit B-11, objected to as marked ballot, is admitted. It appears that protestant's name was first written in the space for Vice-President but was cancelled and the same name was later on written in the proper space for Representative.

Four additional ballots, marked Exhibits B-2 to B-5, are claimed by the protestee. These ballots are rejected. In Exhibits B-2, B-3 and B-4 the protestee's name was not written in the proper spaces for Representative. Exhibit B-5 is likewise rejected as spoiled ballot. It has been established that, besides having been taken from the box for spoiled ballots and having been marked as spoiled, this ballot was given to voter Luisa Dagle who obtained another ballot bearing serial No. 5162.

Two additional ballots, marked Exhibits F-12 and F-13, were originally claimed by the protestant who later on withdrew his claim thereto. These ballots are rejected. Exhibit F-13 was found in the box for spoiled ballots and in Exhibit F-12, the name of the protestant appears in the space for Vice-President.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	15	Uncontested	95
Admitted	2	Admitted	12
<hr/>		<hr/>	
Total	17	Total	107

Precinct 11:

According to the election return from this precinct, the protestant obtained only one vote while the protestee obtained 125 votes. When the ballot box was opened, the protestant claimed 11 votes while the protestee claimed 112 votes.

Nine ballots claimed by the protestee, marked Exhibits F, F-1 to F-8, were originally objected to by the protestant. Objection has been withdrawn with respect to Exhibit F-8. This ballot is admitted. Exhibits F, F-2, F-3, F-4, F-5 and F-6 are rejected since the name of the protestee does not appear in the proper spaces on said ballots.

Exhibit F-7 is also rejected, because what is written in the space for Representative is "Jose Baes". The first name written is entirely distinct and different from that of the protestee, Juan Baes. (*Vizarra vs. Clarin, supra.*)

Only one ballot for the protestant, marked Exhibit B, is objected to by the protestee. This ballot is rejected since the name of the protestant appears written in the space for President.

Both parties claimed one additional ballot, marked Exhibit F-9 for the protestant and Exhibit B-1 for the protestee. On this ballot, the words "Liberal Wing" are written in the space for block-voting. This ballot is admitted in favor of the protestant.

Another ballot, marked Exhibit B-2 and taken from the box for spoiled ballots, is claimed by the protestee. This

ballot is rejected not only because it is marked "spoiled" on the reverse side thereof but also because the voter "Victoria Garcia" who obtained this ballot was given another ballot bearing serial No. 549.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ			BAES		
Uncontested	10		Uncontested		102
Admitted	1		Admitted		1
Total	11		Total		103

MUNICIPALITY OF LUMBAN

SUMMARY

Precinct Number	FERNANDEZ			BAES		
	Uncon- tested	Admit- ted	Total	Uncon- tested	Admit- ted	Total
1	57	4	61	64	1	65
2	74	9	83	97	18	115
3	63	4	67	93	0	93
4	31	2	33	111	6	117
5	60	1	61	162	8	170
6	39	13	52	119	5	124
7	0	45	45	114	5	119
8	70	7	77	91	8	99
9	49	4	53	119	6	125
10	15	2	17	95	12	107
11	10	1	11	102	1	103
Total	486	92	560	1,167	70	1,237

MUNICIPALITY OF LONGOS

Precinct 1:

According to the election return from this precinct, the protestant obtained 40 votes while the protestee obtained 47 votes. In the revision, the parties claimed the same number of votes.

Three ballots, marked Exhibits F-1, F-2, and F-3, claimed by the protestee, were originally objected to by the protestant. Objection to Exhibit F-1 has been withdrawn. Said ballot is admitted. Exhibit F-2, objected to as written by two hands, is admitted, the objection having no basis. Exhibit F-3 is rejected, it being apparent that the same has been prepared by two hands.

Four ballots, marked Exhibits B-1, B-2, B-3 and B-4, claimed by the protestant, are objected to by the protestee on the ground that the first three are marked ballots, while the last one is illegible. Exhibits B-1 and B-2 are rejected. In writing the name "P. Lacsí" in the 8th space for Senator in Exhibit B-1 and the name "Bening Romero" in the 7th space for Senator in Exhibit B-2, the voters concerned could have no other intention than to identify their votes. The rule established in paragraph 13, sec-

tion 149 of the Revised Election Code is here inapplicable.

Exhibit B-3 is admitted. The fact that the name of Jose P. Laurel had been written in the space for block-voting as well as in the proper space for President does not constitute a distinguishing mark. It is reasonable to suppose that the voter decided to vote for this candidate for the office of President but committed the mistake of writing his name in the space for block-voting. Realizing his error, the voter wrote the same name in the space for President.

Exhibit B-4, objected to as illegible, is admitted. The word "Libeal" which is *idem sonans* with Liberal has been written in the space for block-voting by a poor scribe.

The protestee claims an additional ballot, marked Exhibit B-5. This ballot is rejected because the protestee's name appears written in the space for Vice-President.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	36	Uncontested	44
Admitted	2	Admitted	2
<hr/>		<hr/>	
Total	38	Total	46

Precinct 2:

According to the election return from this precinct, the protestant obtained 11 votes, while the protestee obtained 103 votes. In the revision, the parties claimed the same number of votes.

Two ballots claimed by the protestee, marked Exhibits F-1 and F-2, were originally objected to by the protestant.

Exhibit F-2, to which objection has been withdrawn, is admitted.

Exhibit F-1 is rejected, it being apparent that the same had been prepared by more than one hand.

Two ballots, marked Exhibits B-4 and B-5, claimed by the protestant, are objected to by the protestee as marked ballots. These ballots are clear and clean and are admitted.

Three additional ballots, marked Exhibits B-1, B-2, and B-3, are claimed by the protestee. These ballots are rejected as stray votes, protestee's name not being written in the proper space for Representative.

The protestee claims 3 other ballots taken from the box for spoiled ballots, marked Exhibits B-6, B-7 and B-8. These ballots are rejected as spoiled, and also because the protestee's name does not appear in the proper space for Representative.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	9	Uncontested	101
Admitted	2	Admitted	1
Total		Total	
11		102	

Precinct 3:

According to the election return from this precinct, the protestant obtained 8 votes, while the protestee obtained 175 votes. In their report, the Commissioners on Revision found 8 votes for the protestant and 187 votes for the protestee.

Twenty-four ballots claimed by the protestee, marked Exhibits F, F-1 to F-23, inclusive, were originally objected to by the protestant. Objection to Exhibits F-13, F-16, F-18, F-19, F-20, F-22 and F-23 has been withdrawn. Said seven exhibits are, therefore, admitted.

Exhibits F to F-9 are rejected as stray votes, the protestee's name not being written in the proper space for Representative.

Exhibits F-10 and F-11, objected to as having been prepared each by more than one person, are admitted, the objection being unfounded.

Exhibit F-12, objected to as marked ballot, is admitted. The fact that the candidates' names are not written in regular order does not constitute a distinguishing mark.

Exhibit F-14 is likewise rejected for containing indecent and impertinent expressions.

Exhibits F-15, F-17 and F-21, objected to as having been written each by more than one hand, are admitted.

Two ballots claimed by the protestant, marked Exhibits B and B-1, are objected to as having been written each by two persons. We find the objection untenable. Said ballots are admitted.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	6	Uncontested	163
Admitted	2	Admitted	13
Total		Total	
8		176	

Precinct 4:

According to the election return from this precinct, the protestant obtained 14 votes while the protestee obtained 200 votes. In the revision, the protestant claimed the same number of votes but the protestee claimed only 196 votes.

Fifteen ballots, claimed by the protestee and marked as Exhibits F, F-1 to F-14, inclusive, were originally objected to by the protestant. Objection to Exhibits F, F-3,

F-4, F-6, F-9, F-12 and F-13 has been withdrawn by him. Said exhibits are admitted.

Exhibit F-1 is rejected as a marked ballot. In the 7th and 8th spaces for Senators, the names "Miss Aurea Mercado" and "Ginyong Sierra", respectively, have been written. In writing these names, the voter could not have any other intention than to identify his vote. The provisions of paragraph 13 of section 149 of the Revised Election Code are not applicable to this ballot.

For the same reason, Exhibit F-2 is rejected as marked, the marks consisting in the names "E. Ratac" and "C. Macawili" appearing in the 1st and 2d spaces for Senators. The handwriting on this ballot appears to be that of a fairly educated man, and no reasonable explanation can be given for voting such persons for Senator.

Exhibit F-5, objected to as marked ballot, is admitted. The word appearing in the 7th space for Senator, read by the protestant as "Nanen" and regarded by him as a distinguishing mark, may refer to "Nueno" who was a candidate for Senator.

Exhibit F-7, objected to as having been written by more than one hand, is admitted.

Exhibit F-8, objected to as a marked ballot, is admitted, the idem mark (") appearing on the 8th space for Senator merely indicating desistance on the part of the voter to complete his line-up of senatorial candidates.

Exhibit F-10, objected to on the ground that the name written in the space for Representative is "M. Baus", is admitted. The Tribunal is more inclined to read the written words on this ballot as "M. Baes". The erroneous initial "M." does not invalidate the vote, in accordance with paragraph 6, section 149 of the Revised Election Code.

Exhibit F-11, is objected to on the ground that what is written in the space for Representative is "Juan Ban." This ballot is admitted under the rule of *idem sonans*.

Exhibit F-14, objected to as having been written by more than one hand, is admitted.

Four ballots, claimed by the protestant, marked as Exhibits B, B-1, B-2 and B-3, are objected to by the protestee. All these ballots are admitted. The fact that red ink was used in the preparation of Exhibits B and B-1 does not invalidate the same (paragraph 10, section 149, Revised Election Code). As to Exhibit B-2, the fact that the surnames "Adduru" and "Nueno" on the 6th and 8th spaces for Senator are written in block letters does not invalidate the ballot (paragraph 18, section 149, Revised Election Code). The objection to Exhibit B-3 that it had been prepared by two persons is not sustained by the appearance of the ballot itself.

Ten additional ballots, marked Exhibits B-4 to B-13, inclusive, are claimed by the protestee.

Exhibits B-4, B-5 and B-6, conceded by the protestant to be valid votes in protestee's favor, are admitted.

Exhibit B-7, is rejected, it being illegible.

Exhibit B-8 is also rejected, the name written on the space for Representative being "Recs" which is different from that of the protestee.

Exhibits B-9, B-10, B-11 and B-12 are rejected as stray votes, the protestee's name not being written in the proper space for Representative.

Exhibit B-13 is claimed by the protestee although his name is not written in the proper space for Representative but above his printed name in the column of official candidates of the Avelino Wing of the Liberal Party.

The majority of the members of the Tribunal decided to admit this ballot in favor of the protestee on the theory that the voter who, doubtless, was unfamiliar with the block-voting system and the type of ballot used for the first time in the 1949 election and which was soon abandoned, intended to vote for the protestee for the office of Representative.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	10	Uncontested	181
Admitted	4	Admitted	17
<hr/>		<hr/>	
Total	14	Total	198

Precinct 5:

According to the election return from this precinct the protestant obtained 4 votes, while the protestee obtained 75 votes. The revisors reported 4 votes for the protestant, 74 votes for the protestee, and 7 stray votes.

Twenty-one ballots, marked Exhibits F, F-1 to F-20, claimed by the protestee, were originally objected to by the protestant. Objection has been withdrawn as to Exhibits F-1, F-2, F-3, F-7, F-8, F-9, F-10, F-12, F-13, F-14, F-15, F-16, F-17, F-18 and F-20 which are hereby admitted.

Exhibit F-4, objected to as having been written by more than one hand, is admitted.

Exhibit F-5, objected to as a marked ballot, is admitted. The word "islb" appearing in the first space for Senator cannot be considered as a distinguishing mark.

Exhibit F-6, objected to as marked, is likewise admitted. The word "nano" appearing in the 6th space for Senator must have been intended for Nueno.

Exhibits F-11 and F-19, objected to as having been written each by more than one hand, are admitted.

Protestee claims 2 additional ballots, marked Exhibits B-2 and B-3. Exhibit B-2, objected to on the ground that what is written in the space for Representative is "Sulous Baes" is admitted, the intention to vote for the protestee being evident.

Exhibit B-3 is rejected as a stray vote, the protestee's name not being written in the proper space for Representative.

Only one ballot, marked Exhibit B, claimed by the protestant is objected to by the protestee, on the ground that it had been prepared by more than one person. This objection is without basis and the ballot is admitted.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	3	Uncontested	53
Admitted	1	Admitted	22
<hr/>		<hr/>	
Total	4	Total	75

Precinct 6:

According to the election return from this precinct, the protestant obtained 57 votes, while the protestee obtained 91 votes. The Commissioners on Revision credited both parties with the same number of votes.

Seven ballots, marked Exhibits F-1 to F-7, claimed by the protestee are objected to by the protestant. The objection to Exhibits F-4, F-5 and F-6 has been withdrawn. Said ballots are admitted.

Exhibit F-1 is objected to by the protestant on the ground that what is written in the space for Representative is "Balo". We are inclined to believe that the voter intended to write "Baes" but, because of his poor penmanship, he prolonged the letter "e" to resemble the small letter "l". This ballot is admitted.

Exhibit F-2 is admitted.

Exhibit F-3 is rejected because what is written in the space for Representative is "Jose Baes". (*Vizarra vs. Clarin, supra.*)

Exhibit F-7, objected to as having been prepared by more than one hand, is admitted.

Twelve ballots claimed by the protestant, and marked Exhibits B-1 to B-12, are objected to by the protestee. All these ballots are admitted, the objections interposed thereto being without foundation in fact.

The protestee claimed 3 ballots, marked Exhibits B-13, B-14, and B-15, also marked as Exhibits F-8, F-9, and F-10. These ballots are rejected as stray votes, the protestee's name not being written in the proper space for Representative.

Protestee further claims one additional ballot taken from the red box, marked as Exhibit B-16 and also as F-11. This ballot is rejected not only because it is marked spoiled on the reverse side thereof but also because the words "Abilino ribirar" are written in the 2d space for Senator instead of in the space for block-voting.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	45	Uncontested	84
Admitted	12	Admitted	6
Total	57	Total	90

SUMMARY

MUNICIPALITY OF LONGOS

Precinct Number	FERNANDEZ			BAES		
	Uncon- tested	Admit- ted	Total	Uncon- tested	Admit- ted	Total
1	36	2	38	44	2	46
2	9	2	11	101	1	102
3	6	2	8	163	13	176
4	10	4	14	181	17	198
5	3	1	4	53	22	75
6	45	12	57	84	6	90
Total	109	23	132	626	61	687

MUNICIPALITY OF MABITAC

Precinct 1:

According to the election return from this precinct, the protestant obtained 37 votes while the protestee obtained 90 votes. The revisors credited the parties with the same number of votes.

Seven ballots, claimed by the protestee and marked Exhibits F-1 to F-7, were originally objected to by the protestant. Objection has been renounced as to Exhibits F-2, F-3, F-4, F-5 and F-7. These ballots are admitted.

Exhibit F-1, objected to as having been prepared by two persons, is admitted.

Exhibit F-6, in which the words "Jose Avelino Wing" are written in the space for block-voting, is likewise admitted.

Twelve ballots, marked Exhibits B-1 to B-12 and claimed by the protestant, are objected to by the protestee.

Exhibits B-1 to B-9, and B-11, objected to as marked ballots, are admitted. The Tribunal finds no distinguishing marks on said ballots.

Exhibit B-10 is objected to on the ground that the word "Liberal" is written under the dotted line in the

middle of the rectangle enclosing the space reserved for block-voting. This ballot is admitted.

Exhibit B-12 is objected to as illegible. This ballot is admitted. The word "Librel" which appears in the space for block-voting, is *idem sonans* with Liberal.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	25	Uncontested	83
Admitted	12	Admitted	7
Total	37	Total	90

Precinct 2:

According to the election return from this precinct, the protestant obtained 61 votes while the protestee obtained 77 votes. The revisors credited the protestant with 66 votes and the protestee with 78 votes.

Fourteen ballots, claimed by the protestee and marked Exhibits F, F-1 to F-13, were originally objected to by the protestant. Objection has been withdrawn as to Exhibits F, F-2, F-4, F-6, F-7, F-8, F-9, F-10, F-11, F-12 and F-13. These ballots are admitted.

Exhibit F-1 is rejected as stray vote, the protestee's name being written in the space for Vice-President.

Exhibit F-3, objected to as marked, is admitted.

Exhibit F-5 is rejected because what is written in the space for Representative is "Pedro Baes" a name entirely different from that of the protestee. (*See Vizarra vs. Clarin, supra.*)

The protestee claims an additional ballot, marked Exhibit B-1, from the box for spoiled ballots. This ballot is rejected not only because it is spoiled but also because the protestee's name is written in the space for Vice-President.

Twenty-two ballots, claimed by the protestant and marked Exhibits B, B-1 to B-21, are objected to by the protestee. Exhibits B, B-1, B-2, B-3 and B-4, claim as to which has been renounced by the protestant in his memorandum, are rejected as stray votes. However, Exhibits B-5, B-6, B-7, B-8, B-9, B-10, B-11, B-12, B-13 to B-21, which are objected to as marked ballots and as having been prepared each by two persons, are all admitted. We find no distinguishing marks in said ballots and the handwriting in each of them appears to be that of different persons.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	44	Uncontested	64
Admitted	17	Admitted	12
Total	61	Total	76

Precinct 3:

According to the election return from this precinct, the protestant obtained 44 votes while the protestee obtained 108 votes. In the report of the Commissioners on Revision, 44 votes are claimed by the protestant and 106 votes are claimed by the protestee.

Eighteen ballots, marked Exhibits F, F-1 to F-17 and claimed by the protestee, were originally objected to by the protestant. Objection has been withdrawn as to Exhibits F-1, F-5, F-6, F-9, F-10, F-12, F-13, F-14, F-15, F-16 and F-17, which are hereby admitted.

Exhibit F, objected to as marked ballot, is admitted. The fact that the protestant's name appears in one of the spaces for Senator does not constitute a distinguishing mark.

Exhibit F-2, objected to on the same ground, is admitted.

Exhibit F-3, objected to for containing the words "Pomping Riping" after the surname "Pendatun" in one of the spaces for Senator, is admitted. We believe that the words complained of do not constitute distinguishing marks sufficient to invalidate this ballot.

Exhibit F-4 is rejected on the ground that impertinent, insulting and unnecessary words or expressions appear in the 6th, 7th and 8th spaces for Senator as follows: "Estanislao Bakulaw," "Estanislao Fernandez Kura," and "Estanislao Fernandez Hambog".

Exhibit F-7 is rejected because the name written in the space for Representative is "Jose Baes". (See *Vi-zarra vs. Clarin, supra.*)

Exhibits F-8 and F-11, objected to as marked ballots, are admitted.

Five additional ballots, marked Exhibits B-8 to B-12, are claimed by the protestee.

Exhibits B-8 and B-9 are rejected as stray votes, the protestee's name being written in the space for Vice-President.

Exhibit B-10 is admitted. What is written in the space for Representative is "Jonwes" which is *idem sonans* with protestee's name.

Exhibit B-11 is rejected as the word "Buce" written in the space for Representative is neither the name of protestee nor is it *idem sonans* with it.

Exhibit B-12 is likewise rejected, because the name "J. Baes" is written upside down in one of the spaces for Senator.

Eight ballots claimed by the protestant and marked Exhibits B, B-1 to B-7, are objected to by the protestee.

Exhibit B is admitted, although the name written in the space for Representative is "S. Fernandez". (See paragraph 6, section 149, Revised Election Code.)

Exhibit B-1, objected to as having been prepared by two different persons, is admitted.

Exhibits B-2, B-3, B-4 and B-5, objected to as marked ballots, are admitted. We found no identification marks on these ballots.

Exhibit B-6 is objected to on the ground that what is written in the space for block-voting is "Liberte Pate". This ballot is admitted under the rule of *idem sonans*.

Exhibit B-7 is objected to as illegible. We are however, able to decipher the word written on the space for block-voting as "Libeeaal", which is *idem sonans* with Liberal.

The protestant claims an additional ballot marked Exhibit F-18 on which only the initials "Q.L.P." are written in the space for block-voting. The Tribunal decided to reject this ballot in line with the rule established in paragraph 15, section 149 of the Revised Election Code, to the effect that a vote containing initials only is not valid.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ			BAES		
Uncontested	36		Uncontested	88	
Admitted	8		Admitted	17	
Total		44	Total		105

SUMMARY

MUNICIPALITY OF MABITAC

FERNANDEZ				BAES		
Precinct Number	Uncon- tested	Admit- ted	Total	Uncon- tested	Admit- ted	Total
1	25	12	37	83	7	90
2	44	17	61	64	12	76
3	36	8	44	88	17	105
Total	105	37	142	235	36	271

MUNICIPALITY OF FAMY

Precinct 1:

According to the election return from this precinct the protestant obtained 36 votes while the protestee obtained 62 votes. During the revision, the protestant claimed the same number of votes while the protestee claimed an additional vote, or a total of 63.

Three ballots, claimed by the protestee and marked Exhibits F-1, F-2, and F-3, were originally objected to by the protestant. Objection has been withdrawn as to Exhibit F-2 which is hereby admitted.

Exhibit F-1 is rejected because what is written in the space for Representative is the word "Rato" which is not *idem sonans* with the name of the protestee.

Exhibit F-3, objected to as having been prepared by two hands, is admitted.

Three ballots, claimed by the protestant and marked Exhibits B-1, B-2 and B-3, are objected to by the protestee, the first as illegible and the last two as marked ballots. The objections are not well taken and these ballots are admitted.

The protestant originally claimed five more ballots marked Exhibits F-4, F-5, F-6, F-7 and F-8. The claim to these ballots, except Exhibit F-7, was, however, renounced. Exhibits F-4, F-5, F-6 and F-8 are, therefore, rejected.

Exhibit F-7 should also be rejected. On said ballot, the word "Liberal" is written in the space for block-voting but, at the same time, the surname "Quirino" is written in the space for President, thereby abandoning the block-voting system. (See paragraph 20, section 149, Revised Election Code.)

The protestee claims four additional ballots, marked Exhibits B-4, B-5, B-6 and B-7. These ballots are rejected as stray votes.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	33	Uncontested	60
Admitted	3	Admitted	2
<hr/>			
Total	36	Total	62

Precinct 2:

According to the election return from this precinct, the protestant obtained 33 votes, while the protestee obtained 62 votes. During the revision, the protestant claimed 34 votes, while the protestee claimed the same number of votes.

The protestant originally objected to 6 ballots claimed by the protestee, marked Exhibits F, F-1, F-2, F-3, F-4 and F-5. Since objection to Exhibits F, F-1, F-2, F-3, and F-5 has been withdrawn, these ballots are admitted.

Exhibit F-4, objected to as marked ballot, is admitted.

The protestee objects to 6 ballots claimed by the protestant, marked Exhibits B, B-1, B-2, B-3, B-4 and B-5. The objection that these ballots are marked is not well taken and all of them are admitted.

The protestant claims 3 additional ballots, marked Exhibits F-6, F-7 and F-8.

On Exhibit F-6, the spaces reserved for President and Vice-President are not filled out, but in the first, second and third spaces for Senator are written the names Laurel, Briones, and E. Fernandez, respectively. Considering the order in which said names had been written, and consider-

ing further that the first two names written by the voter correspond to candidates for President and Vice-President, respectively, it is evident that the voter simply incurred in a general misplacement of the names of the candidates he was voting for. Following the basic rule of liberality, the majority of the members of the Tribunal agreed to admit this ballot.

Exhibit F-7 is rejected as stray vote, the protestant's name being written in the space for Vice-President.

Exhibit F-8 is admitted, the name voted for therein being readable as "Porades" which is *idem sonans* with Fernandez.

Exhibits F-9 and F-10, taken from the box for spoiled ballots, claim as to which has been renounced by the protestant, are rejected.

Exhibit B-6, taken from the box for spoiled ballots and claimed by the protestee, is rejected as spoiled, there being no evidence that it was placed in the red box by mistake.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	28	Uncontested	56
Admitted	8	Admitted	6
<hr/>		<hr/>	
Total	36	Total	62

Precinct 3:

According to the election return from this precinct, the protestant obtained 44 votes while the protestee obtained 115 votes. In the revision, both parties claimed the same number of votes.

Four ballots, claimed by the protestee and marked Exhibits F, F-1, F-2 and F-3, are objected to by the protestant.

Exhibit F, claimed by the protestee but objected to by the protestant as stray, is admitted. It appears that the voter began writing the surname "Baes" in the space for Representative but continued horizontally upward reaching the space reserved for Vice-President. The intention to vote for the protestee, however, is clear and should be given effect. In Exhibit F-1, "Juan Base" is written in the space for Representative. In Exhibit F-2, "J. Basis" is written in the space for Representative, and in Exhibit F-3, the words "Abeliose Liberal" are written in the space for block-voting. Exhibits F-1 and F-3 are admitted for the protestee under the rule of *idem sonans*. Exhibit F-2 is rejected.

Only one ballot, Exhibit B, claimed by the protestant, is objected to by the protestee. On this ballot, the words "Liberal Party" are written in the space for block-voting but, in the spaces for President and Vice-President, the

surnames Quirino and Lopez are written, respectively. This ballot is rejected in accordance with the rule established in paragraph 20, section 149 of the Revised Election Code.

The protestee claims an additional ballot, marked Exhibit B-1, taken from the box for spoiled ballots. This ballot is rejected as spoiled.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	43	Uncontested	112
Admitted	0	Admitted	3
Total	43	Total	115

SUMMARY

MUNICIPALITY OF FAMY

Precinct Number	FERNANDEZ			BAES		
	Uncon- tested	Admit- ted	Total	Uncon- tested	Admit- ted	Total
1	33	3	36	60	2	62
2	28	8	36	56	6	62
3	43	0	43	112	3	115
Total	104	11	115	228	11	239

MUNICIPALITY OF SINILOAN

Precinct 1:

According to the election return from this precinct, the protestant obtained 66 votes while the protestee obtained 107 votes. During the revision, the parties claimed the same number of votes.

Twenty-four ballots claimed by the protestee, marked Exhibits F-1 to F-24, inclusive, were originally objected to by the protestant. But objection has been withdrawn as to Exhibits F-1, F-2, F-3, F-4, F-5, F-7, F-8, F-10, F-12, F-14, F-16, F-17, F-18, F-20, F-21, F-22, F-23 and F-24. These ballots are admitted.

Exhibit F-6, objected to as marked ballot, is admitted, the words "Plou Roring Viclorio Bungay" appearing in the 8th space for Senator not constituting such a distinguishing mark as would invalidate the whole ballot.

Exhibit F-9, objected to as having been prepared by two hands, is admitted.

Exhibit F-11 is objected to as illegible. But in the proper space for Representative can be read the name "Juan Puon". The word "Puon", whether considered as a nickname or as a Tagalog expression of respect or admiration, does not invalidate the vote. Said exhibit is, therefore, admitted.

Exhibit F-13, objected to as marked ballot, is admitted. The word "Lamber" written after the surname of the

protestee in the space for Representative is not a mark that would invalidate the ballot.

Exhibits F-15 and F-19, objected to as having been prepared by two persons, are admitted.

The protestee objects also to 24 ballots claimed by the protestant, marked Exhibits B-1 to B-24. The ground of the objection is that all these ballots are marked. The Tribunal, however, finds no distinguishing marks whatsoever on any one of these ballots. They are, therefore, admitted.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	42	Uncontested	83
Admitted	24	Admitted	24
<hr/>		<hr/>	
Total	66	Total	107

Precinct 2:

According to the election return from this precinct, the protestant obtained 78 votes while the protestee obtained 113 votes. The revisors reported 77 uncontested votes and 1 stray ballot for the protestant, and 4 contested, 109 uncontested and 2 stray votes for the protestee. Protestant now claims only 77 votes while the protestee claims 113 votes.

The protestant originally objected to 4 ballots claimed by the protestee, marked Exhibits F, F-1, F-2, and F-3. The objection, however, has been withdrawn as to Exhibits F-1, F-2, and F-3. These exhibits are admitted.

Exhibit F is objected to on the ground that the name written in the space for Representative is "Jauna". This name being *idem sonans* with the Christian name of the protestee, the ballot is admitted in his favor under paragraph 1, section 149 of the Revised Election Code, which provides that "any ballot where only the Christian name of a candidate appears is valid for such candidate, if there is no other candidate with the same name for the same office."

No objection has been interposed by the protestee against any of the ballots claimed by the protestant in this precinct.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	77	Uncontested	109
Admitted	0	Admitted	4
<hr/>		<hr/>	
Total	77	Total	113

Precinct 3:

According to the election return from this precinct, the protestant obtained 60 votes while the protestee ob-

tained 112 votes. In the report of the Commissioners on Revision, the same number of votes were credited to the protestant, but the votes for the protestee were reduced by 1.

The protestant originally objected to 9 ballots claimed by the protestee, marked Exhibits F-1 to F-9. However, objection has been withdrawn as to Exhibits F-1, F-2, F-3, F-4, F-7, F-8, and F-9. These ballots are admitted.

Exhibits F-5 and F-6, objected to as having been prepared each by two persons, are admitted.

The protestee objects to 9 ballots claimed by the protestant, marked Exhibits B-1 to B-9, inclusive.

Exhibits B-1, B-2, B-3, and B-4, objected to as marked ballots, are admitted. We find no distinguishing marks on any one of these ballots.

Exhibit B-5, objected to as having been prepared by two persons, is admitted.

Exhibit B-6 is a valid vote in favor of the protestant and is admitted.

Exhibit B-7, objected to as illegible, is admitted. The name "E. Pernande", appearing in the space for Representative is *idem sonans* with the protestant's name.

Exhibits B-8 and B-9, objected to as written by the same person, are admitted. The handwriting on each of these ballots is different one from the other.

The protestee claims 4 additional ballots, marked Exhibits B-10 to B-13. These ballots are rejected, the first being illegible and the other 3 being stray votes, since the protestee's name is written in the space for President or Vice-President.

The protestant claims an additional ballot, marked Exhibit F-10, taken from the box for spoiled ballots. This ballot is rejected as spoiled.

Summarizing, we find the relative standing of the parties in the precinct as follows:

FERNANDEZ		BAES	
Uncontested	51	Uncontested	102
Admitted	9	Admitted	9
<hr/>		<hr/>	
Total	60	Total	111

Precinct 4:

According to the election return from this precinct, the protestant obtained 32 votes, while the protestee obtained 143 votes. In the revision, the protestant claimed the same number of votes while the protestee claimed 2 additional votes. The protestant originally objected to 19 ballots claimed by the protestee and marked Exhibits F and F-1 to F-18, inclusive. Objection has been withdrawn as to Exhibits F-1, F-3, F-4, F-5, F-6, F-7, F-9, F-10, F-11, F-12, F-16, F-17 and F-18. These ballots are admitted.

Exhibit F is admitted, as the name written in the space for Representative is "Juan Bamusa" which is *idem sonans* with the name of the protestee.

Exhibit F-2, containing the name "J. Bars" is admitted under the rule of *idem sonans*.

Exhibit F-8, objected to as marked ballot, is admitted. The fact that the voter wrote "Joe Laurel" in the space for President, "Vic Francisco" in the space for Vice-President, and "John Baes" in the space for Representative, does not render the ballot invalid for the protestee.

Exhibit F-13 is rejected as marked because it contains impertinent and unnecessary expressions in the spaces for Senator. We read them as follows: "Tiyo Macapili Patayen", "Rupo Pampan Patay", "Cadio Macapili patay", "Agapito Pampan patay", "Siyo Macapili Patay", "Ardo Pampan Patay", "Yias Macapili Binbang", and "Tomas Spia Bunutdila".

Exhibit F-14, objected to as marked ballot, is admitted. The words "Hon. Estaning Fernandez" written in the 7th space for Senator, do not constitute such a mark as to invalidate the ballot.

Exhibit F-15, objected to as marked ballot, because the words "future president" are written after "Claro Recto" in one of the spaces for Senator, is admitted. Said words do not by themselves alone constitute a distinguishing mark.

The protestee claims two additional ballots marked Exhibits B-8 and B-9. These ballots are rejected as stray votes, the name of the protestee being written in the space for Vice-President.

The protestee objects to 8 ballots claimed by the protestant, marked Exhibits B and B-1 to B-7.

In his memorandum, the protestant concedes that Exhibit B should be rejected because it contains impertinent and indecent expressions which make the voter undeserving of the right of suffrage. This ballot is rejected.

Exhibit B-1 is admitted. We read in the space for block-voting the word "Libiel" or "Liberl" which is *idem sonans* with Liberal.

Exhibits B-2 to B-7 are objected to as marked ballots. We find no distinguishing mark on any one of these ballots and they are, therefore, admitted.

The protestant originally claimed two additional ballots marked Exhibits F-19 and F-20. In his memorandum, he renounced his claim to Exhibit F-20 but maintains it as to Exhibit F-19.

Exhibit F-20 is rejected as stray vote, since the name of the protestant appears in the space for Vice-President.

In Exhibit F-19, the word "Rebiral", which is *idem sonans* with Liberal, is written in the space for block-

voting, but, at the same time "Elpedio querino" is written in the space for President and "Lorinso Somolon" is written on the first line for Senator. This ballot is rejected. (See paragraph 20, section 149, Revised Election Code.)

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	24	Uncontested	126
Admitted	7	Admitted	18
<hr/> Total		<hr/> Total	
31		144	

Precinct 5:

According to the election return from this precinct, the protestant obtained 37 votes while the protestee obtained 143 votes. In the revision, both parties claimed the same number of votes.

The protestant originally objected to 10 ballots claimed by the protestee and marked Exhibits F, F-1 to F-9. The objection, however, has been withdrawn as to Exhibits F-3, F-4, F-5, F-7, F-8, and F-9. These ballots are admitted.

Exhibits F, F-1 and F-2, objected to on the ground that each had been prepared by two persons, are admitted.

Exhibit F-6 is objected to on the ground that the surname written in the space for Representative is either "Babe" or Baoc". We, however, believe that the intention of the voter was to vote for the protestee but, being a poor scribe, he had much difficulty in forming the word. This ballot is admitted.

The protestee objects to 3 ballots claimed by the protestant and marked Exhibits B, B-1 and B-2.

Exhibit B is admitted, the word written in the space for Representative being readable as "Pernadds", which is *idem sonans* with the protestant's surname.

Exhibit B-2, objected to as a marked ballot and as having been prepared by two persons, is admitted.

Exhibit B-1, conceded by the protestant in his memorandum to be invalid, is rejected, for it contains impertinent and insulting expressions. On this ballot, we find on the 8th line for Senator the following words: "Pareparehong magnanakaw ang mga iyan".

Protestant claims an additional ballot marked Exhibit B-3. This ballot is rejected, because the words "Liberal Party" are written in the first space for Senator.

Four additional ballots, marked Exhibits B-4, B-5, B-6 and B-7, and claimed by the protestee, are rejected, they being stray votes.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	34	Uncontested	133
Admitted	2	Admitted	10
Total	36	Total	143

Precinct 6:

According to the election return from this precinct, the protestant obtained 32 votes while the protestee obtained 86 votes. In the revision, the protestant claimed 33 votes while the protestee claimed 90 votes.

The protestant originally objected to 12 ballots claimed by the protestee, marked Exhibits F, F-1 to F-11. The objection, however, has been withdrawn as to Exhibits F-4, F-6, F-8, F-9, F-10, and F-11, which are hereby admitted.

Exhibits F, F-1 and F-2 are rejected because the name of the protestee appears in wrong spaces.

Exhibit F-3 is rejected because what appears in the space for Representative is illegible.

Exhibit F-5 is admitted. The word "Francue" written after the name Juan Baes in the space for Representative does not constitute a distinguishing mark.

Exhibit F-7 is admitted, because, contrary to protestant's contention, the same appears to have been written by only one person.

The protestee objected to 13 ballots of the protestant, marked as Exhibits B, B-1 to B-12.

Exhibits B-1, B-5 and B-11 are admitted. Each has been prepared by only one person.

Exhibits B, B-2, B-3, B-8 and B-10 are admitted. None contains any distinguishing mark.

Exhibit B-4 is rejected in as much as it contains a stray vote for the protestant.

Exhibit B-6, objected to as a stray vote, because what is written in the space for party voting is "Quirino Parte" is admitted.

Exhibit B-7, objected to because what is written in the space for party voting is "Liberas", is admitted under the rule of *idem sonans*.

Exhibit B-9 is rejected as it contains a stray vote for the protestant.

Exhibit B-12 is admitted. What appears in the space for Representative is "E. fermands", which is *idem sonans* with E. Fernandez.

Exhibits F, F-1 and F-2, claimed by the protestant, and Exhibits B and B-1, claimed by the protestee, were found by the revisors in the box for spoiled ballots. These ballots, however, must have been deposited in said box by mistake. The minutes of voting shows that 138 electors voted in Precinct No. 6 of Siniloan and the election

return from the same precinct shows that the same number of ballots were found in the box for valid ballots. (See Report of Revisor, Exhibit J.) When the revisors, however, opened the white box, they found only 133 ballots. Five other ballots, now claimed by the parties, were found in the red box. In all these five ballots, except Exhibit B, the coupons have been detached and none of them contain the notation that they are "spoiled".

Exhibits F, F-1 and F-2 contain the name of the party of which the protestant was the official candidate in the space for block-voting. These ballots are admitted. Exhibits B and B-1, however, are rejected because the name of the protestee does not appear in the proper space for Representative.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	20	Uncontested	78
Admitted	14	Admitted	8
<hr/>		<hr/>	
Total	34	Total	86

Precinct 7:

According to the election return from this precinct, the protestant obtained 49 votes while the protestee obtained 51 votes. On revision, the protestant claimed 53 votes and the protestee claimed 51 votes.

Protestant originally objected to 7 ballots of the protestee, marked Exhibits F, F-1 to F-6. The objection to Exhibits F, F-2 to F-6, however, has been withdrawn, and these ballots are admitted in favor of the protestee.

Exhibit F-1 is admitted. The presence of initial after the name Juan Baes, followed by the word "wala" is not sufficient to invalidate this ballot.

Protestee objects to 8 ballots of the protestant, marked Exhibits B, B-1 to B-7. All of them are admitted. Exhibit B is not a marked ballot. The names "Rodriguez" and "Evangelista" written thereon are not distinguishing marks. In Exhibit B-1, in the space for block-voting, the words "Liberal Party (Quirino)" are written. This ballot is admitted for the protestant who was the official candidate of the Liberal Party. Exhibits B-2, B-4, and B-5 contain no distinguishing marks. In Exhibit B-3, in the space for Representative, is written the name "P Hernandez" while in Exhibit B-7 the name written is "E. Penandez". Both these names sufficiently identify the protestant under the rule of *idem sonans*.

Protestant claims 3 additional ballots marked Exhibits F-7, F-8 and F-9. Exhibits F-7 and F-8 are hereby admitted. The name "E. Peranto" is written in Exhibit

F-7 and "E. Fradez" in Exhibit F-8. Both names sufficiently identify the protestant under the rule of *idem sonans*. In Exhibit F-9, the words "Liberal Party" are written in the space for block-voting and "E. Qurino" in the space for President. This ballot is rejected. (See paragraph 20, section 149, Revised Election Code.)

The protestee claims two ballots marked Exhibits B-8 and B-9. They are rejected on the ground that his name appears in the space for Vice-President.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	45	Uncontested	44
Admitted	10	Admitted	7
Total	55	Total	51

Precinct 8:

According to the election return from this precinct, the protestant obtained 64 votes while the protestee obtained 27 votes. In the revision, the protestant claimed 65 votes while the protestee claimed 27 votes. No objection has been raised against any of the ballots of the protestee.

Protestee objects to 1 ballot of the protestant, marked Exhibit B. This ballot is rejected. In this exhibit, the words "Liberal Quirino Wing" appear in the space for President and "Lopez" appear in the space for Vice-President. The space for Representative is blank.

In summary, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	64	Uncontested	27
Admitted	0	Admitted	0
Total	64	Total	27

SUMMARY

MUNICIPALITY OF SINILOAN

Precinct Number	FERNANDEZ			BAES		
	Uncon- tested	Admit- ted	Total	Uncon- tested	Admit- ted	Total
1	42	24	66	83	24	107
2	77	0	77	109	4	113
3	51	9	60	102	9	111
4	24	7	31	126	18	144
5	34	2	36	133	10	143
6	20	14	34	78	8	86
7	45	10	55	44	7	51
8	64	0	64	27	0	27
Total	357	66	423	702	80	782

MUNICIPALITY OF PAÑGIL

Precinct 1:

According to the election return from this precinct, the protestant obtained 26 votes while the protestee obtained 115 votes. The revisors credited the parties with the same number of votes.

Fifteen ballots, marked Exhibits F-1 to F-15, were originally objected to by the protestant. The objection has been withdrawn as to Exhibits F-3, F-5, F-6, F-7, F-8, F-9, F-10, F-11, F-13 and F-15. These ballots are admitted.

Exhibit F-1, objected to as marked ballot, is admitted. The fact that the voter wrote "Juan Baes" in the spaces for President, Vice-President, Representative and in the first space for Senator, does not render this ballot invalid.

Exhibit F-2 is admitted. The objection that it was written by two hands is not well taken.

Exhibit F-4, objected to as marked ballot, is admitted. The name "Montalbo Manuel" written in the 8th space for Senator does not constitute a distinguishing mark. (See paragraph 13, section 149, Revised Election Code.)

Exhibit F-12, objected to as marked ballot, is admitted. The names "Fernandez" and "Moneniano", written in the first and second spaces for Senator, respectively, do not constitute a distinguishing mark sufficient to render the ballot invalid.

Exhibit F-14 is admitted. The objection that it is written by more than one hand is, besides, a marked ballot is untenable. The mere fact that the names voted for President, Vice-President, and Representative were written in printed form while the names of the rest of the candidates were written in longhand does not render the ballot invalid. (See paragraph 18, section 149, Revised Election Code.)

The protestee objects to 12 ballots claimed by the protestant, marked Exhibits B-1 to B-12. Contrary to protestee's contention, these ballots contain no distinguishing marks.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	14	Uncontested	100
Admitted	12	Admitted	15
<hr/>		<hr/>	
Total	26	Total	115

Precinct 2:

According to the election return from this precinct, the protestant obtained 26 votes while the protestee obtained 142 votes. In the revision, the parties claimed the same number of votes.

Three ballots, marked Exhibits F-1, F-2 and F-3, claimed by the protestee, are objected to by the protestant. Exhibits F-1 and F-2, objected to as prepared each by more than one person, are admitted. Exhibit F-3, objected to as a marked ballot, is also admitted. The fact that "J. Vaes" appears in the space for Representative and also in a space for Senators does not render the ballot invalid. Under paragraph 3, section 149 of the Revised Election Code, when the name of a candidate appears in two or more spaces of the ballot, it shall be counted in favor of the candidate for the office with respect to which he is a candidate.

The protestee objects to 3 ballots claimed by the protestant, marked Exhibits B-1, B-2 and B-3, on the ground that they are either marked ballots or written each by two persons. We find the objection untenable, and these ballots are admitted.

The protestee claims 6 additional ballots, marked Exhibits B-4 to B-9. All these ballots, except Exhibit B-7, are rejected.

In Exhibit B-7 (F-7), there is a general misplacement of the names of candidates. The voter wrote the names of the official candidates of the Nacionalista Party for President and Vice-President in the first and second spaces for Senator, respectively, followed by the name of the protestee in the third space for Senator and by the names of two candidates for Senator in the two succeeding spaces. The majority of the members of the Tribunal voted to admit this ballot under the authority of *Mandac vs. Samonte*, (*supra*).

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	23	Uncontested	139
Admitted	3	Admitted	4
Total	26	Total	143

Precinct 3:

According to the election return from this precinct, the protestant obtained 13 votes while the protestee obtained 119 votes. In the revision, the parties claimed the same number of votes.

The protestant originally objected to 15 ballots claimed by the protestee and marked Exhibits F-1 to F-15. The objection has, however, been withdrawn with respect to Exhibits F-3, F-4, F-6, F-10, F-12, F-13 and F-15. These ballots are admitted.

Exhibit F-1, objected to as prepared by two hands, is admitted.

Exhibit F-2, objected to as illegible, is admitted. By exerting a title effort, we can read the name voted for Representative in this ballot as that of the protestee.

Exhibit F-15 is objected to on the same ground. This exhibit is admitted as we can read in the space for Representative the name "Guans Bals", which is *idem sonans* with protestee's name.

Exhibit F-7, objected to as prepared by two persons, is admitted, the objection being unfounded.

Exhibit F-8, objected to as a marked ballots, is admitted. The fact that the voter wrote "J. Avilino" and "E. Quirino", in the spaces for Senator while voting for "J. Laurel" for President, does not render the ballot marked.

Exhibit F-9, objected to as marked ballot, is admitted. The fact that the voter also wrote "E. Fernandez" in the space for Vice-President does not operate to invalidate the ballot.

Exhibit F-11, also objected to as a marked ballot, is admitted. The writing in spaces for Senator of three names of persons who were not candidates for any office, does not by itself constitute a distinguishing mark.

Exhibit F-14, objected to as marked because the names voted for President, Vice-President and Representative were written in printed form while the rest of the names were written in longhand, is admitted.

Three ballots, marked Exhibits B-1, B-2 and B-3 and claimed by the protestant, are objected to by the protestee on the ground that each of them had been prepared by more than one person. The objection is untenable and these ballots are admitted.

An additional ballot, marked Exhibit F-16, and originally claimed by the protestant, is rejected, claim thereto having waived by him in his memorandum.

The protestee claims 5 additional ballots marked Exhibits B-4 to B-8 found in the box for valid ballots. All these ballots are rejected.

Exhibits B-4 to B-7 are inadmissible because the protestee's name does not appear in the corresponding space for Representative. In Exhibit B-8, only the words "Avilo liberal" are written in the space for President. The protestee claims this ballot as a valid vote for all the official candidates of the Avelino Liberal Party, including himself. This contention is without merit.

The protestee claims 3 additional ballots found in the box for spoiled ballots, marked Exhibits B-9, B-10 and B-11. These ballots are rejected as spoiled, and also because the protestee's name is not written in the proper space for Representative.

Another ballot, marked Exhibit B-11, and taken from the same box was originally claimed by the protestant.

The claim, however, has been withdrawn. This ballot is also rejected as spoiled.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	10	Uncontested	104
Admitted	3	Admitted	15
<hr/>		<hr/>	
Total	13	Total	119

Precinct 4:

According to the election return from this precinct, the protestant obtained 8 votes while the protestee obtained 161 votes. In the revision, the parties respectively claimed the same number of votes.

The protestant originally objected to 4 of the ballots claimed by the protestee and marked as Exhibits F, F-1, F-2 and F-3. Objection has been withdrawn as to Exhibits F and F-1 which are hereby admitted.

Exhibit F-2, objected to as prepared by two persons, is admitted.

Exhibit F-3 is objected to as a marked ballot. The following are written on this ballot: "Jose Laurel Paredes" in the first space for Senator; "Briones Sumulon" in the second space; "Juan Baes Montinola" in the third space; "Paredes Peralta" in the fourth space; "Sumulong Muntina" in the fifth space; "Montinola Vera" in the sixth space; and "L. Legarda" in the seventh space. There are also two figures in the form of two zeros covering almost all the 7 spaces for Senator. The manner in which this ballot has been prepared is not inconsistent with an honest desire to vote for the protestee in whose favor the ballot is hereby admitted.

One ballot claimed by the protestant and marked as Exhibit B, is objected to by the protestee on the ground that it had been prepared by two persons. The objection is not well taken and the ballot is admitted.

Five additional ballots, marked as Exhibits B-1 to B-5 and also as Exhibits F-4 to F-8, are claimed by the protestee. All these ballots are rejected, except Exhibit B-1. In this ballot, the name written in the space for Representative is "J. Buans" which is *idem sonans* with the name of the protestee.

Summarizing, we find the relative standing of the parties as follows:

FERNANDEZ		BAES	
Uncontested	7	Uncontested	157
Admitted	1	Admitted	5
<hr/>		<hr/>	
Total	8	Total	162

Precinct 5:

According to the election return from this precinct, the protestant obtained 22 votes while the protestee obtained 254 votes. In the revision, the protestant claimed 26 votes while the protestee claimed 250 votes.

Thirty-five ballots, marked Exhibits F, F-1 to F-34 and claimed by the protestee, are objected to by the protestant. Objection has been waived as to Exhibits F-2, F-3, F-5, F-6, F-7, F-10, F-13, F-14, F-19, F-22, F-24, F-25, F-27, F-31 and F-33 which are hereby admitted.

Exhibit F, objected to as prepared by two hands, is admitted.

Exhibit F-1, objected to as marked ballot is admitted. The appearance of a question mark in the 8th space for Senator does not vitiate the vote in favor of the protestee. Apparently, the voter did not know for whom to vote in said space.

Exhibit F-4, also objected to as marked, is admitted. The word "Salirnas" in the 8th space for Senator does not constitute a distinguishing mark.

Exhibit F-8, objected to as prepared by two persons, is admitted.

Exhibit F-9, objected to as a marked ballot is admitted. The fact that the voter wrote "Elpidio Quirino" in the 8th space for Senator, after having voted for Jose P. Laurel for President, is not sufficient to render this ballot invalid.

Exhibit F-11, objected to as marked, is admitted. The fact that the voter wrote in the spaces for Senator the names of persons who were not candidates for said office does not invalidate the ballot.

Exhibit F-12, objected to as marked ballot, is admitted. The appearance of the suffix "Jr." after Vicente Francisco in the space for Vice-President does not constitute a distinguishing mark, as provided for in paragraph 5, section 149, of the Revised Election Code.

Exhibit F-15, also objected to as marked, is admitted. In the space for President in this ballot, the voter wrote "For the sake of Abe, I vote Avelino." It may be conceded that all these words, except "Avelino" are impertinent, but there being no evidence to show that they were written for purposes of identification, we vote to admit this ballot in favor of the protestee.

Exhibit F-16 is objected to as marked ballot, the alleged mark consisting in the word "Saton" written in the 6th space for Senator. This ballot is admitted as said word is not, in itself, sufficient to constitute a distinguishing mark.

Exhibit F-17, objected to as marked, is admitted. The manner in which the names of some candidates have been written and the presence of the name Elpidio Quirino in a space for Senator are not sufficient justifications for annulling this ballot.

Exhibit F-18 is objected to as a marked ballot. The horizontal line drawn after the name of each candidate voted for and reaching almost the end of the dotted lines does not constitute a distinguishing mark.

Exhibit F-20, objected to as marked ballot, is admitted. The fact that the voter wrote "Ciriaco Carpo" in the 8th space for Senator does not nullify the vote in favor of the protestee.

Exhibit F-21, in which "Juana Baes" is voted for Representative, is admitted.

Exhibit F-23 is admitted, the word "Acong" appearing in the 8th space for Senator not being a distinguishing mark.

Exhibit F-26, objected to as a marked ballot, is admitted. In the space for Representative the voter wrote "Baes of Paete". The last two words are, of course, unnecessary but they do not vitiate the vote in favor of the protestee who comes from the town of Paete.

Exhibit F-28, objected to as marked, is admitted. The fact that the voter, after writing the protestee's name in the space for Representative, wrote it again in the 4th, 5th and 7th spaces for Senator, does not annul the ballot, which should be counted for the office of Representative for which the protestee was a candidate. (See paragraph 3, section 149, Revised Election Code.)

Exhibits F-29 and F-30, objected to as marked, are admitted. The inclusion in the spaces for Senators or names of persons who were not candidates for any office does not invalidate the ballots.

Exhibits F-32, objected to as a mutilated ballot, is admitted. There is no showing that this ballot had been intentionally torn at the bottom, about an inch long. The presumption is that it was torn accidentally. (See paragraph 21, section 149, Revised Election Code.)

Exhibit F-34, objected to as prepared by two persons, is admitted. It appears from this ballot that the voter committed the mistake of writing the protestee's name in the space for President, "Jose T. Nueno" in the space for Vice-President, and "Felicidad" in the space for Representative. This three names were erased and the name of the protestee was written in the proper space for Representative. This ballot is valid under paragraph 4, section 149 of the Revised Election Code, which provides that "when in a space in the ballot, there appears a name that is erased and another clearly written, the ballot is valid vote for the latter."

Five ballots, originally claimed by the protestant's revisor during the revision and marked Exhibits B, B-1 to B-4, are objected to by the protestee.

Exhibit B, renounced by the protestant in his memorandum is rejected, because what is written in the space for Representative is "Marcelo Fernandez" a name dis-

inct from that of the protestant. (See Vizarra vs. Clarin, *supra*.)

Exhibits B-1, B-2, B-3 and B-4 contain the name of the protestant properly written and are admitted in his favor.

An additional ballot, marked Exhibit F-35, is claimed by the protestant. In this ballot, the words "Liberal Party" are written in the space for President, the other spaces in the ballot being left blank. This ballot, like Exhibit B-8 (Precinct No. 3, same municipality), is rejected.

Two additional ballots, marked Exhibits B-5 and B-6 and claimed by the protestee, are rejected as stray votes.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ			BAES		
Uncontested	21		Uncontested	215	
Admitted	4		Admitted	35	
<hr/>			<hr/>		
Total	25		Total	250	

Precinct 6:

According to the election return from this precinct, the protestant obtained 1 vote, while the protestee obtained 45 votes. In the revision, the protestant claimed 1 vote while the protestee claimed 43 votes. The protestee concedes the validity of the lone vote of the protestant, while the protestant objects to one ballot claimed by the protestee and marked as Exhibit F.

Exhibit F is admitted. The fact that "Antonio de la Cruz", who was not a candidate for any office, was voted for in the second space for Senator, does not constitute a distinguishing mark.

The standing of the parties in this precinct is maintained as follows:

FERNANDEZ			BAES		
Uncontested	1		Uncontested	42	
Admitted	0		Admitted	1	
<hr/>			<hr/>		
Total	1		Total	43	

SUMMARY

MUNICIPALITY OF PAÑGIL

	FERNANDEZ			BAES		
Precinct Number	Uncontested	Admitted	Total	Uncontested	Admitted	Total
1 -----	14	12	26	100	15	115
2 -----	23	3	26	130	4	143
3 -----	10	3	13	104	15	119
4 -----	7	1	8	157	5	162
5 -----	21	4	25	215	35	250
6 -----	1	0	1	42	1	43
Total -----	76	23	99	757	75	832

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MUNICIPALITY OF PAÑGIL

Precinct 1:

According to the election return from this precinct, the protestant obtained 14 votes while the protestee obtained 223 votes. When the ballot box was opened, the revisors found 21 ballots for the protestant and 218 ballots for the protestee.

The protestant originally objected to 30 ballots claimed by the protestee and marked Exhibits F, F-1 to F-29, inclusive. Objection has been withdrawn as to Exhibits F-12, F-15, F-16, F-18, F-19, F-20, F-21, F-23, F-27 and F-28, which are hereby admitted.

Exhibit F is rejected, because the words "Avelino Wing" are written in the space for President.

Exhibit F-1 is also rejected, because only the initials "J. B." are written in the space for Representative. (Par. 15, section 149, Revised Election Code.)

Exhibit F-2 is rejected, because the protestee's name is written in the first space for Senator.

Exhibit F-3 is rejected, because what is written in the space for Representative is "Brunes" which, very likely, was intended for Briones. The protestee's name is written correctly in the first line for Senator.

Exhibit F-4 is also rejected, because in the space for Representative, what is written is "J. als" which is neither the name of the protestee nor *idem sonans* with it.

Exhibit F-5 is rejected as stray, the name of the protestee being written in the space for Vice-President.

Exhibit F-6 is admitted, although "Baes" is written below the line for Representative and between said line and the first line for Senator. The ballot shows that the voter is a poor scribe, and his intention to vote protestee for Representative is indicated by the fact that the voter wrote his name nearer the line for Representative than the first line for Senator.

Exhibit F-7 is rejected because the name of the protestee is written in the first space for Senator.

Exhibit F-8, objected to as a marked ballot, is admitted. The fact that in this ballot the voter, after voting "Jose Laurel" for President, "Lopez" for Vice-President, and "Juan Baes" for Representative, repeated the surname "Baes" in the eighth space for Senator, does not render said ballot invalid.

Exhibit F-9, objected to as marked, is admitted. The appearance of the word "dalangin", which is the Tagalog word for prayer, in the first space for Senator, is not sufficient to nullify the whole ballot.

Exhibits F-10 and F-11, objected to as marked ballots, are admitted.

Exhibit F-13, objected to as marked because the voter wrote the word "Nito" after the name of the protestee in

the space for Representative, is admitted. The word is unnecessary but it cannot, in itself, be regarded as a distinguishing mark.

Exhibit F-14, objected to as a marked ballot, is admitted. The fact that the names of some candidates are written in block letters while the name of the candidate voted for President is written in ordinary form does not necessarily render the ballot invalid. Paragraph 18 of section 149 of the Revised Election Code provides that "the use of two or more kinds of writing" shall be considered innocent and shall not invalidate the ballot unless it should clearly appear that it was done for purposes of identification.

Exhibits F-17, F-22 and F-24, objected to on the ground that each has been prepared by more than one hand, are admitted.

Exhibit F-25 is objected to on the ground that the surname "Baes" is written on top of the printed name Juan Baes in the column of official candidates of the Avelino Wing of the Liberal Party. The majority of the members of the Tribunal voted to admit this ballot, for reasons stated hereinafore.

Exhibit F-26 is objected to on the ground that what is written in the space for Representative is "Jvan Bops". This ballot was prepared by a poor amanuensis whose intention to vote for the protestee should be upheld.

Exhibit F-29, objected to as a marked ballot, is admitted. It is true that in the 8th space for Senator in this ballot the voter wrote the name "Taruk", which corresponds, according to the protestant, to the Huk chieftain. However, it cannot be shown that the Huk chieftain is the only person who bears such a surname. Furthermore, there is no evidence that the particular surname was used for purposes of identification. The protestee's name is clearly written in the proper space and the intention to vote for him should be given effect.

Exhibit B-3, in which "Liberal Party" is written in the space for President, with all the other spaces, including that for Representative, unfilled, is rejected. (See Exhibit B-8, Precinct No. 3, Pañgil, *supra*.)

Exhibits B, B-1 and B-2, objected to as written each by two persons, are admitted, the objection being unfounded.

Exhibits B-4, B-5, B-6, B-7, B-8 and V-9, objected to as marked ballots, are admitted, the Tribunal finding no distinguishing marks in any of these ballots.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	11	Uncontested	188
Admitted	9	Admitted	23
<hr/>		<hr/>	
Total	20	Total	211

Precinct 2:

According to the election return from this precinct, the protestant obtained 13 votes while the protestee obtained 172 votes. In the revision, the protestant claimed 15 votes while the protestee claimed 166 votes.

The protestant originally objected to 20 ballots claimed by the protestee and marked as Exhibits F, F-1 to F-19. Objection to Exhibits F-2, F-3, F-6, F-8, F-10 to F-19 has been withdrawn. These ballots are admitted.

Exhibits F and F-1, objected to as prepared by two hands, are admitted.

Exhibit F-4 is rejected because what is voted for therein for Representative is "Fernando Baes." (*See Vizarra vs. Clarin, supra.*)

Exhibits F-5, F-7 and F-9, objected to as written by two hands, are admitted.

Nine ballots, claimed by the protestant and marked as Exhibits B, B-1 to B-8, are objected to by the protestee on the ground that they are marked ballots. The Tribunal finds no distinguishing marks whatsoever on any of these ballots. These ballots are admitted.

Exhibit F-20, claimed by the protestant in the revision, has been renounced by him. Said ballot is rejected.

Three additional ballots, marked Exhibits B-9 to B-11, are claimed by the protestee. These ballots are rejected as stray votes, the protestee's name not being written in the proper space for Representative.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	6	Uncontested	146
Admitted	9	Admitted	19
<hr/>		<hr/>	
Total	15	Total	165

Precinct 3:

According to the election return from this precinct, the protestant obtained 11 votes while the protestee obtained 182 votes. In the revision, the protestant claimed 16 votes while the protestee claimed 175 votes.

Twenty-one ballots, claimed by the protestee and marked Exhibits F-1 to F-21, were originally objected to by the protestant. The objection has been withdrawn as to Exhibits F-1, F-3 to F-9, F-11, F-13, F-14, F-15, F-16, F-20 and F-21. These ballots are admitted.

Exhibit F-2, objected to as written by more than one person, is admitted.

Exhibit F-10, objected to as a marked ballot, is admitted. The fact that, in one of the spaces for Senator, the name "Eloy Tinay" appears does not render the ballot marked.

Exhibits F-12, F-17, F-18 and F-19, objected to as marked because certain spaces for Senator contain the names

of persons who were not candidates for that particular office, are admitted.

Five ballots, marked Exhibits B-1 to B-5, and claimed by the protestant, are objected to by the protestee on the ground that they are marked. The Tribunal finds no distinguishing marks whatsoever on any one of said ballots. These ballots are admitted.

Four additional ballots, marked Exhibits B-6 to B-9, are claimed by the protestee. These ballots are rejected since the name of the protestee does not appear in the proper space for Representative.

Summarizing, we find the relative standing of the parties in this precinct, as follows:

FERNANDEZ		BAES	
Nncontested	11	Uncontested	154
Admitted	5	Admitted	21
<hr/>		<hr/>	
Total	16	Total	175

Precinct 4:

According to the election return from this precinct, the protestant obtained 77 votes while the protestee obtained 107 votes. In the revision, the parties claimed the same number of votes.

Protestant originally objected to 16 ballots claimed by the protestee, marked Exhibits F, F-1 to F-15. Objection has been withdrawn with respect to Exhibits F-1, F-2, F-3, F-4, F-5, F-13 and F-15. These ballots are admitted.

Exhibits F and F-6, objected to as marked by the presence in spaces for Senator of persons who were not candidates for that office, are admitted.

Exhibits F-7, F-8 and F-9, objected to as marked on the same ground, are admitted.

Exhibit F-10, objected to as prepared by two persons, is admitted.

Exhibits F-11, F-12 and F-14, objected to as marked with names of persons who were not candidates, are admitted.

Five ballots claimed by the protestant and marked Exhibits B, B-1 to B-4, are objected to by the protestee.

Exhibit B is admitted. We read in the space for block-voting the words "Libaran Pales", which is *idem sonans* with Liberal Party.

Exhibit B-1 is also admitted. We read in the space for Representative the name "Eslao Pernandis" which is *idem sonans* with the name of the protestant.

Exhibits B-2, B-3 and B-4, renounced by the protestant in his memorandum, are rejected, because only his initials are written in the corresponding spaces for Representative.

The protestee claims an additional ballot, marked Exhibit B-5, taken from the box for spoiled ballots.

The presumption that this ballot is spoiled has not been overturned by evidence of any sort. The ballot is rejected.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	72	Uncontested	91
Admitted	2	Admitted	16
Total	74	Total	107

Precinct 5:

According to the election return from this precinct, the protestant obtained 5 votes while the protestee obtained 89 votes. In the revision, the parties claimed the same number of votes.

The protestant originally objected to 8 ballots claimed by the protestee and marked Exhibits F, F-1 to F-7. The objection has been withdrawn as to Exhibits F-1, F-3, F-4 and F-5. These ballots are admitted.

Exhibits F and F-2, objected to as marked in spaces for Senator with the names of persons who were not candidates for that office, are admitted.

Exhibits F-6 and F-7, objected to as prepared by two persons, are admitted.

Two ballots, claimed by the protestant and marked Exhibits B and B-1, are objected to by the protestee.

Exhibits B and B-1, objected to as written by two persons, are admitted.

One additional ballot, marked as Exhibit B-2 and also as Exhibit F-8, is claimed by the protestee. This ballot is rejected because the protestee's name is written in the first space for Senator.

Summarizing, we find the relative standing of the parties in this precinct as follows.

FERNANDEZ		BAES	
Uncontested	3	Uncontested	81
Admitted	2	Admitted	8
Total	5	Total	89

SUMMARY

MUNICIPALITY OF PAKIL

Precinct Number	FERNANDEZ			BAES		
	Uncontested	Admitted	Total	Uncontested	Admitted	Total
1	11	6	20	188	23	211
2	6	9	15	146	19	165
3	11	5	16	154	21	175
4	72	2	74	91	16	107
5	3	2	5	81	8	89
Total	103	27	130	660	87	747

MUNICIPALITY OF STA. CRUZ

Precinct 1:

According to the election return from this precinct, the protestant obtained 58 votes while the protestee obtained 175 votes. In the revision, the protestant claimed the same number of votes while the protestee claimed 174 votes.

The protestant originally objected to 10 ballots claimed by the protestee and marked Exhibits F-1 to F-10. Objection has been withdrawn as to Exhibits F-3, F-4, F-6, F-7 and F-10. These ballots are admitted.

Exhibits F-1, F-2, F-5 and F-8, objected to as having been prepared each by two hands, are admitted.

Exhibit F-9, objected to as illegible, is admitted. In the space for block-voting we read the words "Arelino Lerval" which is *idem sonans* with Avelino Liberal.

Nineteen ballots, claimed by the protestant and marked Exhibits B-1 to B-19 are objected to by the protestee. All these ballots, except B-16, are objected to principally as marked. We find no distinguishing marks whatsoever on any one of these ballots and, therefore, admit them in favor of the protestant. Exhibit B-16 is objected to as illegible but within the rectangle reserved for block-voting we can read "Quirino Liberarl." This ballot is also admitted for the same party.

On ballot marked Exhibit F-11, the words "L. Party" are written in the space for block-voting. This ballot is claimed by the protestant on the supposition that the letter "L" stands for Liberal. This ballot is rejected. (See paragraph 15, section 149, Revised Election Code.)

Six additional ballots, marked Exhibits B-20, B-21 to B-25, are claimed by the protestee.

Exhibit B-20, conceded by the protestant in his memorandum to be a valid vote for the protestee, is nevertheless rejected. On this ballot the voter wrote "Avelino Liberal" in the space for block-voting but at the same time wrote "J. Avelino" in the space for President. (See paragraph 26, section 149, Revised Election Code.)

Exhibits B-21 and B-22 are rejected because what are written in the corresponding space for block-voting are "J. Avelino" and "J. Abillino", respectively, these corresponding to the name of the candidate for President and not that of his party.

Exhibit B-23, conceded by the protestant in his memorandum to be a valid vote in favor of the protestee, is admitted.

Exhibits B-24 and B-25 are rejected as stray votes, the name of the protestee not being written in the space for Representative.

Summarizing, we find the relative standing on the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	39	Uncontested	164
Admitted	19	Admitted	11
<hr/>		<hr/>	
Total	58	Total	175

Precinct 2:

According to the election return from this precinct, the protestant obtained 83 votes while the protestee obtained 125 votes. In the revision, the parties claimed the same number of votes.

The protestant originally objected to 12 ballots claimed by the protestee and marked as Exhibits F, F-1 to F-11. The objection has been withdrawn by the protestant as to Exhibits F, F-1, F-2, F-4, F-5, F-6, F-7, F-8, F-9, F-10 and F-11. These ballots are admitted.

Exhibit F-3, objected to as written by two hands, is admitted.

An additional ballot marked Exhibit B-18, taken from the box for spoiled ballots, is claimed by the protestee. This ballot is rejected as spoiled, there being no evidence that it was deposited in the red box by mistake.

Eighteen ballots, marked Exhibits B, B-1 to B-17, and claimed by the protestant, are objected to by the protestee. All these ballots contain the name of the protestant, sometimes poorly or incompletely written in the proper spaces. The accidental marks and the names of the persons who were not candidates, appearing in some of them cannot be regarded as distinguishing marks. All these ballots are admitted.

During the revision, protestant's revisors claimed an additional ballot marked Exhibit F-12. The claim has been withdrawn, and this ballot is rejected, the protestant's name having been written in the space for Vice-President.

Three additional ballots, marked Exhibits F-13, F-14 and F-15, taken from the box for spoiled ballots, were claimed by the protestant during the revision. There being no evidence that they were deposited in the red box by mistake, all these ballots are rejected as spoiled.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	65	Uncontested	113
Admitted	18	Admitted	12
<hr/>		<hr/>	
Total	83	Total	125

Precinct 3:

According to the election return from this precinct, the protestant obtained 44 votes while the protestee obtained

127 votes. During the revision, the protestant claimed 43 votes while the protestee claimed 126 votes.

The protestant originally objected to 10 ballots claimed by the protestee and marked as Exhibits F and F-1 to F-9, inclusive. In his memorandum, the protestant withdrew his objection to all these exhibits. All of them are hereby admitted.

Twenty-three ballots, claimed by the protestant and marked as Exhibits B, B-1 to B-22, are objected to by protestee. According to him, some of these ballots were prepared by one and the same hand while a few individual ballots were prepared by more than one hand. A careful examination of the ballots disclose the objections to be groundless. All these ballots are, therefore, admitted.

In the revision, protestant's revisors claimed an additional ballot marked Exhibit F-10. The protestant, however, has renounced his claim to it in his memorandum. This ballot is rejected as stray.

The protestee claims five additional ballots marked Exhibits B-23, B-24, B-25, B-26 and B-27.

Exhibit B-23 is admitted although the name "J. Baes" is not written wholly in the space of Representative. Examining the ballot, we find that the voter began writing the letter "J" partly in the space reserved for Representative with a downward direction such that the surname of the protestee falls below the said space. The "neighborhood" rule is here clearly applicable.

Exhibits B-24, B-25, B-26 and B-27 are rejected because they contain stray votes, the name of the protestee not being written in the space for Representative.

The protestee claims 2 additional ballots, marked Exhibits B-28 and B-29, taken from the box for spoiled ballots. These ballots are rejected as spoiled.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	20	Uncontested	116
Admitted	23	Admitted	11
<hr/>		<hr/>	
Total	43	Total	127

Precinct 4:

According to the election return from this precinct, the protestant obtained 57 votes while the protestee obtained 138 votes. In the revision, the protestant claimed 60 votes while the protestee claimed 139 votes.

The protestant originally objected to 6 ballots claimed by the protestee and marked Exhibits F, F-1 to F-5. The objection has been withdrawn as to Exhibits F-3 and F-4. These two ballots are admitted.

Exhibit F is rejected as a stray vote, the name "Juan Baes" being written in the second space for Senator.

Exhibits F-1 and F-2, objected to as marked ballots, are admitted.

Exhibit F-5, objected to as marked ballot and as prepared by two persons, is admitted.

Thirty-three ballots, claimed by the protestant and marked as Exhibits B, B-1 to B-32, are objected to by the protestee. In his memorandum, the protestant has renounced his claim to Exhibits B, B-1 and B-2. These ballots are rejected.

Exhibits B-3 to B-10 are objected to as marked ballots and as prepared each by two persons. We find the objections to be without basis. These eight ballots are admitted.

Exhibits B-11 to B-32, inclusive, are objected to on the alleged ground that they are falsified. This objection is not fully understood by the Tribunal, and no evidence has been adduced to sustain it. These ballots are regular in form and appearance and consequently admitted in favor of the protestant whose name appears in them all in the proper space for Representative.

The protestee claims an additional ballot, marked Exhibit B-1. This ballot is rejected because the protestee is voted for therein for President.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	27	Uncontested	133
Admitted	30	Admitted	5
<hr/>		<hr/>	
Total	57	Total	138

Precinct 5:

According to the election return from this precinct, the protestant obtained 26 votes while the protestee obtained 159 votes. In the revision, the parties respectively claimed the same number of votes.

Five ballots claimed by the protestee and marked as Exhibits F, F-1 to F-4, were originally objected to by the protestant as marked. In his memorandum, however, he withdrew his opposition to all of them. These ballots are all admitted.

One ballot claimed by the protestant and marked Exhibit B is objected to by the protestee on the ground that it had been prepared by two persons. This objection is untenable, and the ballot is admitted.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	25	Uncontested	154
Admitted	1	Admitted	5
<hr/>		<hr/>	
Total	26	Total	159

Precinct 5-A:

According to the election return from this precinct, the protestant obtained 30 votes while the protestee obtained 144 votes. In the revision, the protestant claimed the same number of votes while the protestee claimed 143 votes.

The protestant originally objected to 14 ballots claimed by the protestee and marked as Exhibits F-1 to F-14. In his memorandum, the protestant withdrew his objection to all these ballots. They are all admitted.

Four ballots claimed by the protestant and marked Exhibits B-1 to B-4 are objected to by the protestee. The first 3 ballots are alleged to have been prepared by the same hand, while the fourth ballot is alleged to be marked. We find the objections to be unwarranted and all these ballots are admitted.

In the revision, the protestant's revisors claimed 2 additional ballots marked Exhibits F-15 and F-16. In his memorandum, however, the protestant renounced his claim to them. In Exhibit F-15, the word "Liberal" was not written in the space for block-voting but in the first space for Senator, while in Exhibit F-16 only "QLP Wing" appear written above the printed list of candidates of the Liberal Party. Both ballots are rejected.

Nine additional ballots marked Exhibits B-5 to B-13 are claimed by the protestee.

Exhibit B-5 is admitted. The name of the protestee is written immediately below the line for Representative. The intention to vote for the protestee for the proper office is manifest.

Exhibit B-6 is rejected. In the space for block-voting, the voter wrote "J. Avelino Liberal"; but in the first space for Senator, he also wrote "M. Recto." (*See par. 20, section 149, Revised Election Code.*)

Exhibit B-12 is admitted although the surname "Baes" is written in the third space for Senator. As in two other ballots, there is a general misplacement of the names of candidates, "Jose Laurel" having been written two spaces ahead of "Baes".

Exhibits B-7, B-8, B-9, B-10, B-11 and B-13 are rejected as stray votes, since the name of the protestee appears outside the proper space for Representative.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	26	Uncontested	129
Admitted	4	Admitted	16
<hr/>		<hr/>	
Total	30	Total	145

Precinct 6:

According to the election return from this precinct, the protestant obtained 35 votes while the protestee obtained 183 votes. In the revision, the parties respectively claimed the same number of votes.

The protestant originally objected to 17 ballots claimed by the protestee and marked Exhibits F-1 to F-17. The objection has, however, been withdrawn with respect to all these exhibits, except Exhibit F-9. This exhibit, which has been objected to as prepraed by two persons, is admitted.

Twenty ballots, claimed by the protestant and marked Exhibits B-1 to B-20, are objected to by the protestee. The general objection made is that these ballots are either marked, or were written each by two persons, or that groups of ballots were prepared by a single hand. We have examined the ballots carefully and found the objections to be unfounded. All these ballots are, therefore, admitted.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	15	Uncontested	166
Admitted	20	Admitted	17
<hr/>		<hr/>	
Total	35	Total	183

Precinct 7:

According to the election return from this precinct, the protestant obtained 37 votes while the protestee obtained 143 votes. In the revision, the parties respectively claimed the same number of votes.

Four ballots claimed by the protestee and marked Exhibits F, F-1, F-2 and F-3, were originally objected to by the protestant, but the objection has been withdrawn. These ballots are admitted.

Objection have been interposed by the protestee to only one ballot claimed by the protestant and marked Exhibit B. The objections are that the ballot is marked and that it was prepared by two hands. The objections are not well taken and the ballot is admitted.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	36	Uncontested	139
Admitted	1	Admitted	4
<hr/>		<hr/>	
Total	37	Total	143

Precinct 8:

According to the election return from this precinct, the protestant obtained 51 votes while the protestee obtained

190 votes. In the revision, the protestant claimed the same number of votes while the protestee claimed only 189 votes.

The protestant objected, on various grounds, to 12 ballots claimed by the protestee and marked Exhibits F, F-1, to F-11. In his memorandum, however, he withdrew his objection to them all. These ballots are all admitted.

The protestee objected to 5 ballots claimed by the protestant and marked Exhibits B, B-1 to B-4.

Exhibit B is alleged to be "falsified and illegal." This objection is not well understood by the Tribunal and no evidence has been adduced to show that this ballot is what it is alleged to be. The objection is overruled and the ballot is admitted.

Exhibits B-1 and B-2, objected to as marked ballots, are admitted. "Quiring Quirino" appearing in Exhibit B-2 must have been written in the space for President without any intention to mark the ballot.

Exhibit B-3, objected to as illegible, is admitted. In the space for Representative we read the word "Pernandeze" which is *idem sonans* with the surname of the protestant.

Exhibit B-4, objected to as marked, is admitted. The Tribunal finds no mark whatsoever on this ballot.

The protestee claims 2 additional ballots marked Exhibits B-5 and B-6.

Exhibit B-5 is rejected, because the name of the protestee is written in the space for Vice-President.

Exhibit B-6 is likewise rejected, because the name of the protestee is written in a space for Senator.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	46	Uncontested	177
Admitted	5	Admitted	12
<hr/>		<hr/>	
Total	51	Total	189

Precinct 9:

According to the election return from this precinct, the protestant obtained 45 votes while the protestee obtained 156 votes. In the revision, the parties respectively claimed the same number of votes.

The protestant originally objected to 16 ballots claimed by the protestee and marked Exhibits F, F-1 to F-15. The objection has been withdrawn as to Exhibits F, F-1 to F-9, F-11, F-12, F-13 and F-15, and so these ballots are admitted.

Exhibits F-10 and F-14, objected to as prepared each by two persons, are admitted.

Nine ballots claimed by the protestant and marked Exhibits B, B-1 to B-5, objected to as having been pre-

pared by one person, are admitted, there being no basis for the objection.

Exhibit B-6, objected to as marked ballot, is likewise admitted. The check marks after the printed words "Liberal Party" on top of the ballot do not constitute distinguishing marks.

Exhibit B-7, containing "Fernandez Estanislao" in the space for Representative, is admitted in favor of the protestant. There is no provision in the election law which invalidates a vote in favor of a candidate whose surname is written ahead of his Christian name.

Exhibit B-8 is admitted, the word written in the space for block-voting being "Liberal" and not "Libercel" as contended by the protestee. The letters preceding the "1" ending the word written by the voter are "ra" and not "rce". Even "Libercel" is admissible under the rule of *idem sonans*.

The protestee claims two ballots taken from the box for valid ballots, marked as Exhibits B-9 and B-10 and also as Exhibits F-16 and F-17, respectively. These ballots are rejected as stray, the name of the protestee not being written in the space for Representative.

Three additional ballots taken from the box for spoiled ballots, marked as Exhibits B-12, B-13 and B-14, and also as Exhibits F-19, F-20 and F-21, respectively, are claimed by the protestee. These ballots are rejected as spoiled.

One ballot, marked as Exhibit F-18 and also as Exhibit B-11, which had been taken from the box for spoiled ballots, was originally claimed by the protestant during the revision. In his memorandum, however, he renounced his claim to said ballot. This ballot is rejected,

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	36	Uncontested	140
Admitted	9	Admitted	16
<hr/>		<hr/>	
Total	45	Total	156

Precinct 10:

According to the election return from this precinct, the protestant obtained 34 votes while the protestee obtained 185 votes. In the revision, the protestant claimed 37 votes while the protestee claimed 187 votes.

The protestant originally objected to 51 ballots claimed by the protestee, marked Exhibits F, F-1 to F-50. In his memorandum, the protestant has withdrawn his objection to Exhibits F, F-2, F-3, F-4, F-6, F-9, F-10, F-11, F-13, F-14, F-15, F-18 to F-31, F-33 to F-49. These ballots are admitted.

Exhibit F-1 is objected to on the ground that what is voted for therein is "Boer". We believe that the name

written is really that of the protestee. The irregularity in the shape of the letters must be due to poor penmanship or insufficiency in writing experience.

Exhibits F-5, F-7, F-8, F-12, F-16, F-17 and F-32, objected to as prepared each by two different persons, are admitted.

Exhibit F-50, objected to as marked, is admitted. The fact that Josefina Phodaca, who was not a candidate for any office in the disputed election, was voted for Senator does not render the ballot invalid.

Eight additional ballots, marked Exhibits B-17 to B-24, are claimed by the protestee.

Exhibit B-17 is rejected. On this ballot, "Juse Avelino", which is the name of the candidate for President and not of his party, is written in the space for block-voting.

Exhibits B-18 to B-23 are rejected as stray, the name of the protestee not having been written in the space for Representative.

In Exhibit B-24, the name of the protestee is written below the printed name "Ricardo Montanano" in the column of official candidates of the Nacionalista Party. The names "Juse Laurel" and "M. Briones" were also written below the printed names of these candidates in the same column. The majority of the members of the Tribunal voted to admit this ballot.

The protestee claims 4 additional ballots taken from the box for spoiled ballots, marked Exhibits B-25 to B-28. These ballots are rejected as spoiled.

Seventeen ballots claimed by the protestant and marked Exhibits B, B-1 to B-16 are objected to by the protestee. All these exhibits are admitted, the objection interposed by the protestee being unfounded.

Exhibit F-51, originally claimed by protestant during the revision, but waived by him in his memorandum, is rejected as stray.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	20	Uncontested	136
Admitted	17	Admitted	52
<hr/>		<hr/>	
Total	37	Total	178

Precinct 13:

According to the election return from this precinct, the protestant obtained 32 votes while the protestee obtained 217 votes. During the revision, the protestant claimed the same number of votes while the protestee 222 votes.

The protestant originally objected to 24 ballots claimed by the protestee and marked Exhibits F, F-1 to F-23. The objection has been withdrawn as to Exhibits F-5 to

F-8, F-12 to F-18, F-20 and F-21. These ballots are admitted.

Exhibits F, F-1 and F-2 are rejected as containing stray votes, the name of the protestee not being written in the space for Representative.

Exhibit F-3 is rejected because it refers to all the three contending candidates for Representatives, in the following manner: "Monta Fernandez Baes".

Exhibit F-4, objected to on the ground that the person voted for therein is "Baod", is admitted. The name written is really "Baes" although the letters are quite irregular in form.

Exhibit F-9, objected to as marked ballot in view of the presence of fingerprints, is admitted. The presumption under the law is that those prints were stamped unintentionally.

Exhibits F-10 and F-11, objected to as marked and as prepared each by two persons, are admitted.

Exhibit F-19, objected to as illegible, is admitted.

Exhibits F-22 and F-23, objected to as marked ballots and as prepared by two persons each, are admitted.

Seven ballots, marked Exhibits B, B-1 to B-6 and claimed by the protestant, are objected to by the protestee, as marked ballots. Finding no distinguishing marks on any of them, these ballots are admitted.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	25	Uncontested	198
Admitted	7	Admitted	20
<hr/>		<hr/>	
Total	32	Total	218

Precinct 14:

According to the election return from this precinct, the protestant obtained 33 votes while the protestee obtained 187 votes. In the revision, the protestant claimed 34 votes while the protestee claimed the same number of votes.

Exhibit F, objected to by protestant but now conceded by him to be a valid vote for protestee is admitted.

Exhibit B, claimed by the protestant and objected to by the protestee, is rejected on the ground that in the space for block-voting in this ballot, only the initials "Q. L." are written. This ballot should be, as it is hereby rejected.

Summarizing, we find the relative standing of the parties in this precinct to be as reported in the election return, to wit:

FERNANDEZ		BAES	
Uncontested	33	Uncontested	186
Admitted	0	Admitted	1
<hr/>		<hr/>	
Total	33	Total	187

Precinct 15:

According to the election return from this precinct, the protestant obtained 3 votes while the protestee obtained 64 votes. During the revision, the parties respectively claimed the same number of votes.

The protestant originally objected to 12 ballots claimed by the protestee and marked Exhibits F-1 to F-12. Objection has been withdrawn with respect to Exhibits F-12, F-5, F-6, F-7, F-8, F-9, F-11 and F-12. These ballots are admitted.

Exhibits F-1, F-3, F-4 and F-10, objected to as prepared by two persons, are admitted.

The protestee claimed 3 additional ballots marked Exhibits B-3, B-4 and B-5. These ballots are rejected as stray, the name of the protestee not being written in the space for Representative.

Two ballots, claimed by the protestant and marked Exhibits B-1 and B-2, are objected to by the protestee as marked ballots. Finding no distinguishing marks on these ballots, the same are hereby admitted.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	1	Uncontested	52
Admitted	2	Admitted	12
<hr/>		<hr/>	
Total	3	Total	64

Precinct 16:

According to the election return from this precinct, the protestant obtained 23 votes while the protestee obtained 56 votes. During the revision, the protestant claimed 24 votes while the protestee claimed the same number of votes.

The protestant originally objected to 9 ballots claimed by the protestee, marked Exhibits F, F-1 to F-8. Objection has been withdrawn as to Exhibits F-2, F-4, F-5, F-7 and F-9. These ballots are admitted.

Exhibits F and F-1, objected to as marked ballots, are admitted.

Exhibit F-3, objected to as written by two persons, is admitted.

Exhibit F-6 is objected to on the ground that what is written in the space for Representatives is "Juan B." This ballot is admitted.

The protestee claims two additional ballots marked Exhibits B-6 and B-7. These ballots are rejected as containing stray votes, the name of the protestee not being written in the space for Representative.

Six ballots, claimed by the protestant and marked Exhibits B, B-1 to B-5, are objected to by the protestee.

Exhibits B-1, B-2 and B-3, objected to as having been prepared by only one person, are admitted, the objection not being sustained by the different handwritings appearing on these ballots.

Exhibits B-4 and B-5, objected to on the same ground, are admitted for the same reason.

Exhibit B is objected to on the ground that the word Liberal is not written on the space reserved for block-voting. This ballot is admitted, because while Liberal is not written exactly on the space for it, it is written within the rectangle reserved for political party.

In summary, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	18	Uncontested	47
Admitted	6	Admitted	9
Total	24	Total	56

Precinct 19:

According to the election return from this precinct, protestant obtained 9 votes, while protestee obtained 128 votes. In the revision, the protestant claimed the same number of votes while the protestee claimed 140 votes.

The protestant originally objected to 31 ballots claimed by the protestee, marked Exhibits F, F-1 to F-30. Objection has been withdrawn as to Exhibits F-18, F-19, F-21, F-23, and F-28. These ballots are admitted.

Exhibits F, F-1 to F-14 are rejected as containing stray votes, the name of the protestee not being written in the space for Representative.

Exhibit F-16 is likewise rejected as marked ballot and as containing an impertinent expression. In the 6th space for Senator, the voter wrote "Pihong ako ang panalo."

Exhibit F-15, objected to on the ground that what is written in the space for Representative is "Baes Nacionalista", is admitted. While the protestee did not present his candidacy for Representative under the banner of the Nacionalista Party, reference to this party does not necessarily and by itself constitute a distinguishing mark.

Exhibit F-17, objected to as marked ballot, is admitted.

Exhibits F-20, F-22, F-24 and F-25, objected to as prepared each by two persons, are admitted.

Exhibit F-26 is objected to on the ground that, according to the protestant, what is written in the space for Representative is "J. Blo". We, however, believe that the word written is "J. Bes". This ballot is admitted under the rule of *idem sonans*.

Exhibits F-27, F-29 and F-30, objected to as prepared each by two persons, are admitted.

The protestee claims an additional ballot, marked Exhibit B, which was found in the box for spoiled ballots.

In this ballot, the word "spoiled" is written in ink vertically from the third space for Senator up to the space for President. Its coupon, without any thumbmark, is undetached. This ballot is rejected.

Five ballots, marked Exhibits B, B-1 to B-4 and claimed by the protestant, are objected to by the protestee on distinct grounds. Finding all the objections to be without basis, the ballots are admitted.

Summarizing, we find the relative standing of the parties in this precinct to be as follows:

FERNANDEZ		BAES	
Uncontested	4	Uncontested	109
Admitted	5	Admitted	15
Total	9	Total	124

Precinct 20:

According to the election return from this precinct, the protestant obtained 16 votes, while the protestee obtained 174 votes. In the revision, the parties respectively claimed the same number of votes.

The protestant originally objected to 16 ballots claimed by the protestee and marked Exhibits F, F-1 to F-15. In his memorandum, the protestant has waived objection to all these ballots, except Exhibit F-12. All these ballots, including Exhibit F-12, where the voter wrote the word "Mongkado" in the space for Vice-President, are admitted.

One ballot claimed by the protestant and marked Exhibit B is objected to by the protestee on the ground that names of persons who were not candidates are written in the spaces reserved for Senator. This ballot is admitted.

Two ballots, marked Exhibits F-16 and F-17, and originally claimed by the protestant, are rejected. Protestant has withdrawn his claim. Besides, in Exhibit F-16, the surname of said protestant appears in the space for Vice-President and, in Exhibit F-17, the name "Ipidio Qrino" and not the name of his party is written in the space for block-voting.

The protestee claims 7 additional ballots, marked as Exhibits B-1 to B-17 and also as Exhibits F-18 to F-24. These ballots are rejected as containing stray votes, the name of the protestee not being written in the space for Representative.

Summarizing, we find the relative standing of the parties in this precinct to be as follows:

FERNANDEZ		BAES	
Uncontested	15	Uncontested	158
Admitted	1	Admitted	16
Total	16	Total	174

Precinct 21:

According to the election return from this precinct, the protestant obtained 44 votes while the protestee obtained 140 votes. In the revision, the protestant claimed the same number of votes while the protestee claimed 135 votes.

The protestant originally objected to 31 ballots claimed by the protestee and marked Exhibits F, F-1 to F-30. The objection has been waived as to Exhibits F-2, F-4 to F-12, then F-14, F-15, F-16, F-18, F-19, F-25, to F-30. These ballots are admitted.

Exhibits F, F-1, F-3 and F-13, objected to as prepared each by two persons, are admitted.

Exhibit F-17, objected to as a marked ballot, is admitted. The fact that in one of the spaces for Senator the voter wrote the word "Monkado" does not render this ballot marked.

Exhibit F-20, objected to as prepared by two persons, is admitted.

Exhibits F-21, F-22 and F-23, objected to as written by only one person, are admitted, the objection not being supported by the difference in the handwritings appearing on the ballots.

Exhibit F-24 is not a marked ballot, as claimed by the protestant and is, therefore, admitted.

Twenty-six ballots, marked Exhibits B, B-1, to B-25, inclusive, and claimed by the protestant, are objected to by the protestee.

It is not true that Exhibits B, B-1 to B-14 are ballots that can be separated into three distinct groups each of which has been prepared by only one hand. All these ballots are admitted.

Exhibits B-15 to B-23, objected to on various grounds are admitted.

Exhibit B-24, in which "taning parindes" is voted for in the space for Representative, is admitted under the rule of *idem sonans*.

Exhibit B-25, objected to as marked ballot, is also admitted.

The protestant originally claimed 6 additional ballots marked Exhibits F-31 to F-36. In his memorandum, he, however, has withdrawn his claim, except as to Exhibit F-32. In Exhibits F-31, F-35 and F-36, the word "Le-beral" is written in the space for President; in Exhibit F-32, the initials "L. P." are written in the space for block-voting; and in Exhibits F-33 and F-34, the name of the protestant appears in a space for Senator. All these ballots are rejected.

An additional ballot, marked Exhibit B-42, is claimed by the protestant. The word appearing in the space for Representative not being legible, this ballot is rejected.

The protestee claims 17 ballots marked Exhibits B-26 to B-42, the last exhibit being the same one claimed by the protestant and rejected by this Tribunal.

Exhibits B-26 to B-40 are rejected as stray votes, the name of the protestee not being written in the space for Representative.

Exhibit B-41 is objected to by the protestant on the ground that the name of the protestee has been written below his printed name in the column of official candidates of his party. The majority of the members of the Tribunal decided to admit this ballot in line with the basic rule of liberality.

Exhibit B-42, likewise claimed by the protestee, is rejected as illegible.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	18	Uncontested	104
Admitted	26	Admitted	32
<hr/>		<hr/>	
Total	44	Total	136

Precinct 22:

According to the election return from this precinct, the protestant obtained 99 votes while the protestee obtained 176 votes. In the revision, the parties respectively claimed the same number of votes.

The protestant originally objected to 11 ballots claimed by the protestee and marked Exhibits F-1 to F-11. Objections have been withdrawn as to Exhibits F-4, F-5, F-8, F-9, F-10 and F-11. These ballots are admitted.

Exhibits F-1, F-2 and F-3, objected to as marked ballots, are admitted.

Exhibit F-6 is rejected. In the 8th space for Senator, the voter wrote the following impertinent and irrelevant expression: "Thorton iniibig kita."

Exhibit F-7, objected to as prepared by two persons, is admitted.

The protestee objected to 9 ballots claimed by the protestant, marked Exhibits B-1 to B-9. These ballots are admitted.

Two additional ballots, marked Exhibits B-12 and F-13 originally claimed but later on abandoned by the protestant, are rejected inasmuch as the name of this candidate was written in the space for Vice-President.

One ballot, marked Exhibit F-14, found in the box for spoiled ballots, is claimed by the protestant. On this

ballot "Liberal Party" is written in the space for block-voting. This ballot is rejected there being no evidence that it was deposited in the red box by mistake. Two other ballots, marked Exhibits F-15 and F-16, claimed by the protestant and taken from the box for spoiled ballots, are rejected for the same reason.

The protestee claims 9 additional ballots marked Exhibits B-10 to B-18. These ballots are rejected as containing stray votes, the name of the protestee not being written in the space for Representative.

The protestee claims 4 additional ballots, marked Exhibits B-19 to B-22 and found in the box for spoiled ballots. For reasons hereinbefore stated, these ballots are rejected as spoiled ballots.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	90	Uncontested	165
Admitted	9	Admitted	10
<hr/>		<hr/>	
Total	99	Total	175

SUMMARY

MUNICIPALITY OF STA. CRUZ

Precinct Number	FERNANDEZ			BAES		Total
	Uncon- tested	Admit- ted	Total	Uncon- tested	Admit- ted	
1	39	19	58	164	11	175
2	65	18	83	113	12	125
3	20	23	43	116	11	127
4	27	30	57	133	5	138
5	25	1	26	154	5	159
5-A	26	4	30	129	16	145
6	15	20	35	166	17	183
7	36	1	37	139	4	143
8	46	5	51	177	12	189
9	36	9	45	140	16	156
10	20	17	37	136	52	188
13	25	7	32	198	20	218
14	33	0	33	186	1	187
15	1	2	3	52	12	64
16	18	6	24	47	9	56
19	4	5	9	109	15	124
20	15	1	16	158	16	174
21	18	26	44	104	32	136
22	90	9	99	165	10	175
23	41	0	41	73	3	76
Total	600	203	803	2,659	279	2,938

MUNICIPALITY OF PAETE

Precinct 1:

According to the election return from this precinct, the protestant obtained 17 votes while the protestee obtained 247 votes. In the revision, the protestant claimed 16 votes while the protestee claimed the same number of votes.

The protestant originally objected to 28 ballots claimed by the protestee and marked Exhibits F-1 to F-28. The objection has been withdrawn as to Exhibits F-13, F-14, F-16, F-18, F-20, F-22, F-23, F-24, F-26, F-27 and F-28. These ballots are all admitted.

Exhibits F-1 to F-4 are rejected on the ground that the surname "Baes" written in the space for Representative in these 4 ballots had been written by the same hand.

Exhibits F-5 to F-9, objected to on the same ground, are rejected, except Exhibits F-5 and F-7 which must have been prepared by distinct hands.

Exhibits F-10, F-11 and F-12 are rejected on the ground that they were prepared by only one person.

Exhibits F-15 and F-17, objected to as prepared each by more than one person, are admitted.

Exhibits F-19, F-21 and F-25, objected to as marked ballots, are admitted, there being no distinguishing marks thereon.

Ten ballots, claimed by the protestant and marked Exhibits B-1 to B-10, are objected to by the protestee. We find the objections unfounded. These ballots are admitted.

Summarizing, we find the relative standing of the parties in this precinct to be as follows:

FERNANDEZ		BAES	
Uncontested	6	Uncontested	219
Admitted	10	Admitted	18
<hr/>		<hr/>	
Total	16	Total	237

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	3	Uncontested	235
Admitted	6	Admitted	85
<hr/>		<hr/>	
Total	9	Total	320

155 votes. In the revision, the parties claimed the same number of votes.

Four ballots, marked Exhibits F, F-1, F-2, and F-3 and claimed by the protestee, were originally objected to by the protestant. The objection has been waived as to Exhibits F and F-2, which are admitted.

Exhibit F-1, objected to as marked ballot on the ground that, after the name "Juan Baes" in the space for Representative, the voter wrote "Kabayan", is hereby admitted. There is no evidence showing the intention of the voter to identify his vote.

Exhibit F-3 is rejected as a stray vote, the name of the protestee being written outside the proper space for Representative.

One ballot, marked Exhibit F-4, found in the box for spoiled ballots and originally claimed by the protestant, is rejected.

Protestant's votes are all uncontested.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	7	Uncontested	151
Admitted	0	Admitted	3
Total		Total	
151		154	

Precinct 5:

According to the election return from this precinct, the protestant obtained 11 votes while the protestee obtained 206 votes. In the revision, the protestant claimed the same number of votes while the protestee claimed 208 votes.

The protestant originally objected to 13 ballots claimed by the protestee and marked Exhibits F, F-1 to F-12. The objection has been withdrawn as to Exhibits F-4, F-5, F-6, F-7, F-9, F-10 and F-12. These ballots are admitted.

Exhibits F and F-1 are objected to as stray, the name of the protestee not being written in the space for Representative.

Exhibits F-2, F-3 and F-8, objected to as prepared each by more than one person, are admitted.

Exhibit F-11, objected to as marked with the word "tiyak", Tagalog for "sure" or "certain", is admitted.

Six ballots claimed by the protestant and marked Exhibits B, B-1 to B-5, are objected to by the protestee. The first five ballots are not marked, as alleged by the protestee, and the sixth ballot does not contain a stray vote for the protestant since the words "E. Quirino Wings" appear in the space for block-voting. These ballots are admitted.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	5	Uncontested	195
Admitted	6	Admitted	11
<hr/>		<hr/>	
Total	11	Total	206

Precinct 6:

According to the election return from this precinct, the protestant obtained 12 votes while the protestee obtained 210 votes. In the revision, the parties claimed the same number of votes.

The protestant originally objected to all the ballots claimed by the protestee and marked Exhibits F-1 to F-11. The objection has been waived as to Exhibits F-1, F-2, F-5, F-10 and F-11 which are hereby admitted.

Exhibits F-3 and F-4, objected to as written each by two hands, are admitted.

Exhibits F-6, F-7, F-8 and F-9 are admitted. The fact that in Exhibit F-6, the name "Juan Baes" is repeated in the space for Vice-President, that in Exhibit F-7, the name "Quirino" is repeated in a space for Senator, that in Exhibit F-8, the name "Francisco" is written in a space for Senator although "Briones" already appears in the space for Vice-President and that in Exhibit F-9, the names appearing in the spaces for President, Vice-President and Representative have been written in printed form unlike the rest of the names written in the same ballot, does not render the corresponding ballots inadmissible.

The protestee objected to 3 ballots, claimed by the protestant and marked Exhibits B-1, B-2 and B-3, on the ground that they are marked ballots. The objection is not well taken and the ballots are admitted.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	9	Uncontested	199
Admitted	3	Admitted	11
<hr/>		<hr/>	
Total	12	Total	210

Precinct 7:

According to the election return from this precinct, the protestant obtained 6 votes while the protestee obtained 138 votes. In the revision, the protestant claimed 6 votes while the protestee claimed only 137 votes.

The protestant originally objected to Exhibits F, F-1 to F-25, inclusive. Objection, however, has been with-

drawn with respect to Exhibits F, F-1 to F-13, F-17, F-18, F-20, F-21, F-24 and F-25 which are admitted.

Exhibit F-14, objected to as marked because "Teodoro de Vera" is written differently from the other names appearing on the ballot, is admitted.

Exhibits F-15 and F-16, objected to as prepared each by two persons, are admitted.

Exhibit F-19, objected to as marked ballot, is admitted. The fact that the voter wrote "Iglesia ni Cristo Manalo" in the space for block-voting is not sufficient to justify the annulment of this ballot.

Exhibit F-22, in which the name of the protestee is repeated in a space for Senator, is admitted.

Exhibit F-23, in which "Juana A. Baes" is voted for Representative, is likewise admitted. "Senador Santiago Madrigos" written in the last space for Senator, is not necessarily a distinguishing mark.

Only one ballot claimed by the protestant and marked as Exhibit B, is objected to by the protestee. On this ballot, the words "Eleberal Party quirino" are written in the space for block-voting. The objection is overruled and this ballot is admitted.

Nine additional ballots, marked Exhibits B-1 to B-9, are claimed by the protestee. These ballots are all rejected as containing stray votes, the name of the protestee not being written in the space for Representative.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	5	Uncontested	11
Admitted	1	Admitted	26
<hr/>		<hr/>	
Total	6	Total	137

Precinct 8:

According to the election return from this precinct, the protestant obtained 7 votes while the protestee obtained 177 votes. In the revision, the protestant claimed 8 votes while the protestee claimed only 174 votes.

The protestant originally objected to 37 ballots claimed by the protestee and marked Exhibits F-1 to F-37.

The objection has been waived as to Exhibits F-12, F-14, F-16, F-19, F-20 to F-29 and F-32. These ballots are admitted.

Exhibits F-1 to F-6, objected to as having been prepared by one and the same hand are rejected except Exhibit F-1 which is admitted.

Exhibit F-7 is objected to on the ground that what is written in the space for block-voting is "Avelino Wing". This ballot is admitted.

Exhibits F-8, F-9, F-10 and F-11 are objected to as prepared by one single person. The objection is overruled and these ballots are admitted.

Exhibit F-13, objected to as marked ballot, is admitted.

Exhibit F-15 contains the name of the protestee in the proper space and is admitted.

Exhibit F-17, objected to as marked ballot, is admitted. The appearance of the word "compadre" after the surname Laurel, written in the space for President, does not, in itself, constitute a distinguishing mark sufficient to annul the whole ballot.

Exhibit F-18, objected to as marked ballot, is admitted.

Exhibit F-21 in which "Juana Baes" is voted for Representative is admitted.

Exhibits F-30, F-31 and F-33, objected to as written by the same hand, are admitted.

Exhibits F-34 and F-35, objected to as written by the same hand, are admitted.

Exhibits F-36 and F-37, objected to on the same ground, are admitted.

The protestee objects to 2 ballots claimed by the protestant and marked Exhibits B-1 and B-2. These ballots do not contain distinguishing marks and are admitted.

One ballot, marked Exhibit F-38, was originally claimed by both parties. The protestant subsequently withdrew his claim, it appearing that the name written in the space for Representative is "Baes". This ballot, however, cannot be counted in favor of the protestee because the word "Liberal" appears to have been written by another person in the space for block-voting. Having been prepared by two distinct hands, and not knowing which word was written by the voter himself, this ballot is rejected.

The protestee claims 5 additional ballots marked Exhibits B-3 to B-7. These ballots are rejected as containing stray votes, the protestee's name not being written in the space for Representative.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	6	Uncontested	137
Admitted	2	Admitted	32
<hr/>		<hr/>	
Total	8	Total	169

Precinct 9:

According to the election return from this precinct, the protestant obtained 3 votes while the protestee obtained 265 votes. In the revision, the protestant claimed 5 votes while the protestee claimed the same number of votes.

The protestant originally objected to 22 ballots claimed by the protestee and marked Exhibits F, F-1 to F-21. The

objection has been waived as to Exhibits F-12, F-14, F-15, F-16, F-18, F-19 and F-21. These are all admitted.

Exhibits F, F-1 to F-5 appear to have been prepared by the same hand and are rejected.

Exhibit F-6 appear to have been prepared by a distinct hand and is admitted.

Exhibits F-7, F-8, F-9 and F-10 are rejected, it appearing that they had been prepared by the same person.

Exhibit F-11 is rejected. In the space for block-voting, the voter wrote "Jose Avleno" which is the name of the candidate and not that of his party.

Exhibit F-13 is rejected because what is voted for therein for Representative is "Juan Ac-ac" which is an entirely different name from that of the protestee.

Exhibit F-17, objected to as marked, is admitted.

Exhibit F-20, objected to as marked with the name "Madarang" in the fifth space for Senator, is likewise admitted.

One ballot marked Exhibit B and on which "Quirino Liberal" is written in the space for President, was originally claimed by the protestant. The claim has been renounced and the ballot is rejected.

The protestee claims 2 additional ballots taken from the box for spoiled ballots and marked Exhibits B and B-1.

The coupons are undetached and contain no thumbmark. These ballots are rejected as spoiled.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ			BAES		
Uncontested	4		Uncontested	243	
Admitted	0		Admitted	10	
<hr/>			<hr/>		
Total	4		Total	253	

SUMMARY

MUNICIPALITY OF PAETE

FERNANDEZ				BAES			
Precinct	Number	Uncon- tested	Admit- ted	Total	Uncon- tested	Admit- ted	Total
1	6	10	16	219	18	237
2	3	6	9	235	85	320
3	22	9	31	202	11	213
4	7	0	7	151	3	154
5	5	6	11	195	11	206
6	9	3	12	199	11	210
7	5	1	6	111	26	137
8	6	2	8	137	32	169
9	4	0	4	243	10	253
Total		67	37	104	1,692	207	1,899

COUNTER-PROTEST
MUNICIPALITY OF LILIO

Precinct 1:

According to the election return from this precinct, the protestant obtained 220 votes while the protestee obtained 6 votes. In the revision, the protestant claimed 217 votes while the protestee claimed the same number of votes.

No objection has been raised by the protestant against any of the 6 votes claimed by the protestee.

The protestee, however, objected, on various grounds, to 106 ballots claimed by the protestant and marked as Exhibits B, B-1 to B-105. The Tribunal took the pain of examining carefully the disputed ballots and found the objections entirely to be unwarranted.

Mention should only be made of Exhibit B-104 which was objected to on the ground that it was used by a minor. We have to overrule this objection in the absence of evidence to sustain it with respect to this particular ballot. Besides, under section 176 (f) of the Revised Election Code, "in election contest proceedings, the registry list, as finally corrected by the Board of Inspectors, shall be conclusive in regard to the question as to who had the right to vote in said election." If a minor had been able to register as a voter and is subsequently allowed to vote, his ballot, if in all other respects valid, will have to be counted, without prejudice to his prosecution in appropriate proceedings. In a resolution unanimously adopted by this Tribunal on January 26, 1951, in connection with the instant case, we said:

"The protestee's motion challenges, in effect, the lists of voters prepared prior to the last general election. These lists can only be changed within the period and in the manner provided by Law (See secs. 117 *et seq.*, Revised Election Code.) They can not be purged at any other time and in any other way (*see* 20 C. J., 86). To allow them to be mutilated after the election will lead to confusion and unconscionable delays.

"Proceedings for exclusion from the rolls should have been instituted, according to law and prior to the election, against persons who registered in more than one precinct and against minors who, by the Constitution and by statute, are disqualified from voting. These persons, of course, may be prosecuted, together with those who voted more than once or who impersonated absent voters, but evidence against them can not be obtained through this Tribunal, in a pending election contest, by the protestee who does not represent the prosecution."

Exhibits B, B-1 to B-105, therefore, are admitted.

The protestant originally claimed 6 additional ballots marked Exhibits F, F-1 to F-5, but has waived in his memorandum his claim to Exhibit F in which "Liberal" is written in the space for President, F-2, in which some letters which do not correspond to the name of the protestant are written in the space for Representative, and F-5, in

which "E. Fernando Lopz" is written in the space for Representative. These three ballots are rejected.

In Exhibit F-1, the voter wrote the word "Liberal" in the space for block-voting, although in an inverted manner. This ballot is admitted.

In Exhibit F-3, all the names of the candidates voted for were written one space lower so that the name "E. Fernandez" appears in the first space for Senator. In accordance with the ruling made by the majority of the members of this Tribunal in connection with two other ballots in which a general misplacement was made by the corresponding voters, this ballot is admitted.

Exhibit F-4, containing "E. Faneng" in the space for Representative, is rejected. What has been written may correspond, at most, to the nickname "Estaning" which in itself would be insufficient to identify the protestant. See paragraph 9, section 149, Revised Election Code.)

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	111	Uncontested	6
Admitted	108	Admitted	0
<hr/>		<hr/>	
Total	219	Total	6

Precinct 2:

According to the election return from this precinct, the protestant obtained 207 votes, while the protestee obtained 11 votes. In the revision, the protestee claimed the same number of votes while the protestant claimed 209 votes.

The protestant originally objected to one ballot claimed by the protestee and marked Exhibit F-1, on the ground that the name written in the space for Representative is illegible. The objection has been waived and this ballot is admitted.

The protestee objects to 115 ballots claimed by the protestant and marked Exhibits B-1 to B-115. We have examined carefully all the disputed ballots and found the objections to be unfounded, except as to Exhibit B-87. This exhibit, recounced by the protestant in his memorandum is rejected in view of the following impertinent expressions contained therein: "If you do not like a good" in the space for Vice-President, "If you like a good obedient" in the space for Representative, and "Benito Briones *alias* Gongong" in the 8th space for Senator. Exhibits B-1 to B-86 and Exhibits 88 to B-115 are, therefore, admitted.

The protestant originally claimed 6 additional ballots marked Exhibits F-2 to F-7; but, in his memorandum, he waived his claim to all these exhibits, except Exhibit F-2 in which the words "Laeral Part" are written in the space for block-voting. Exhibit F-2 is admitted under the rule

of *idem sonans*. Exhibit F-5 is also admitted, in spite of the waiver made by the protestant, in harmony with a ruling adopted by the majority of the Tribunal in connection with three other ballots similarly prepared. In this ballot "Jose P. Laurel", "M. Berusns" which is *idem sonans* with the name of the Nacionalista candidate for Vice-President, and "E. Fernandez" are written in the first second and third spaces for Senator, respectively, the rest of the spaces being blank. The other four ballots are rejected.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	94	Uncontested	10
Admitted	116	Admitted	1
Total	210	Total	11

Precinct 3:

According to the election return from this precinct, the protestant obtained 252 votes while the protestee obtained 7 votes. In the revision, both parties claimed the same number of votes. No objection is raised by the protestant against any of the ballots claimed by the protestee.

Upon the other hand, 72 ballots marked Exhibits B and B-1 to B-71, inclusive, and claimed by the protestant are objected to by the protestee on various grounds. We have examined the disputed ballots carefully and found the objections to be unwarranted. All these ballots are admitted.

Fourteen additional ballots marked Exhibits F, F-1 to F-13 and claimed by the protestant in the revision have been renounced by him. Said ballots are rejected because the protestant was not voted for in the proper space.

Exhibit F-14, found in the box for spoiled ballots and claimed by the protestant during the revision, is rejected, there being no evidence that it was deposited in said box by mistake. The notation "spoiled" is written on the reverse side of this ballot and its coupon bearing serial number 1141 is undetached.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	180	Uncontested	7
Admitted	72	Admitted	0
Total	252	Total	7

Precinct 4:

According to the election return from this precinct, the protestant obtained 195 votes while the protestee obtained 6 votes. In the revision, the parties respectively claimed the same number of votes.

Protestant originally objected to 6 ballots of the protestee marked Exhibits F, F-1 to F-5. The objections have been withdrawn and said exhibits are admitted.

The protestee objects, upon the other hand, to 166 ballots claimed by the protestant and marked Exhibits B, B-1 to B-165. All these ballots are admitted except Exhibits B and B-5. In Exhibit B, the voter filled up from the third to the seventh line for Senator with the following impertinent, irrelevant and unnecessary words, or expressions, respectively: "Emong Cuetib *alias* Don Doro", "Bibing Cumayas *alias* Tapayan", "Pedrong Otchay *alias* Senador", "Generoso Cordova *alias* Osov", and "Egnacio Colona *alias* Bankugan". Exhibit B-5 clearly shows that it was prepared by two persons.

Three additional ballots were originally claimed by the protestant and marked Exhibits F-6, F-7 and F-8. In his memorandum the protestant insists in the admission of Exhibit F-7 only. On this ballot, the voter wrote the word "pernadez" in the space below the line for Representative but much closer to it than to the first line for Senator. The intention to vote in favor of the protestant for Representative is clear and this ballot is admitted.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	29	Uncontested	0
Admitted	165	Admitted	6
Total	194	Total	6

Precinct 5:

According to the election return from this precinct, the protestant obtained 180 votes while the protestee obtained 13 votes. In the revision, the protestee claimed the same number of votes.

The protestant originally objected to 7 ballots claimed by the protestee and marked Exhibits F, F-1 to F-6. The objection has been waived as to Exhibits F, F-5 and F-6. These ballots are admitted.

Exhibits F-1 and F-2 are objected to on the ground that the words "Avelino Liberal", appearing in each of them in the space for block-voting, were written by only one hand. The objection is not well taken and the ballots are admitted.

Exhibits F-3 and F-4, objected to on the same ground, are likewise admitted.

Sixty ballots claimed by the protestant and marked Exhibits B, B-1 to B-59 are objected to by the protestee.

Exhibit B which contains "Elpidio Querino Liberal" in the space for block-voting, is admitted.

Exhibit B-1, in which the voter wrote only the initials "QLP" in the space for block-voting, is rejected, conformably to our ruling on a similar ballot.

Exhibit B-2 is rejected as illegible.

Exhibit B-3, objected to on the same ground, is admitted, "Liberal Quirino" having been written by the voter in the space for block-voting.

Exhibits B-4 to B-58 are divided into 8 groups, each of which is alleged to have been written by only one hand. We have examined these ballots carefully and found the objection to be untenable.

Exhibit B-59 is objected to on the ground that it is illegible. This ballot is admitted because "Reberal Qrino" can be read in the space for block-voting. All these ballots, Exhibits B-4 to B-59, are hereby admitted.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	122	Uncontested	6
Admitted	58	Admitted	7
<hr/>		<hr/>	
Total	180	Total	13

Precinct 6:

According to the election return from this precinct, the protestant obtained 216 votes while the protestee obtained 13 votes. In the revision, the protestant claimed 219 votes while the protestee claimed the same number of votes.

No ballot claimed by the protestee is objected. Upon the other hand, 95 ballots, marked Exhibits B and B-1 to B-94 and claimed by the protestant, are objected to by the protestee.

Exhibits B, B-1 and B-2 are objected to as containing stray votes. In his memorandum, the protestant admits that these exhibits should be, as they are hereby, rejected.

Exhibit B-3, objected to as illegible and as prepared by two persons, is admitted. In the space for Representative we read "Estanilo Fern" which is *idem sonans* with the protestant's name. The objection that more than one hundred prepared this ballot is not well taken.

Exhibits B-4 to B-11, objected to as marked ballots, are admitted.

Exhibits B-12 to B-94 have been divided into 13 groups, each of which group is alleged to have been prepared by only one person. We have examined all these ballots carefully and we are not satisfied that they suffer from the defect alleged, except Exhibits B-36 and B-37, which are hereby rejected. All the rest are admitted.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	124	Uncontested	13
Admitted	90	Admitted	0
<hr/>		<hr/>	
Total	214	Total	13

According to the election return from this precinct, the protestant obtained 154 votes while the protestee obtained 15 votes. In the revision, the parties respectively claimed the same number of votes.

All the 15 ballots, claimed by the protestee and marked Exhibits F, F-1 to F-14, were originally objected to by the protestant. The objections have been waived in the protestant's memorandum and all these are admitted.

One hundred and three (103) ballots, claimed by the protestant and marked Exhibits B, B-1 to B-102, are objected to by the protestee.

Exhibits B, B-1 to B-95 have been divided into 8 groups, each of which group is alleged to have been written by only one hand. An examination of these ballots belies the contention of the protestee. All of them are admitted.

Exhibits B-96 to B-102 are objected to either as marked ballots or as prepared each by two hands. The objections are not well taken and the ballots are admitted.

Five additional ballots, marked Exhibits F-15 to F-19 and claimed by the protestant, are rejected as stray, except Exhibit F-18, in which "E. Pernandis" is written below the printed name of the protestant in the column of official candidates of the Liberal Party. The majority of the members of the Tribunal decided to admit this and similar ballots.

Exhibits F-20 and F-21, claimed by the protestant, were found in the box for spoiled ballots and are rejected, there being no evidence that they were deposited in that by mistake.

Summarizing, we find the relative standing of the parties in this precinct to be as follows:

FERNANDEZ		BAES	
Uncontested	51	Uncontested	0
Admitted	104	Admitted	15
<hr/>		<hr/>	
Total	155	Total	15

Precinct 8:

According to the election return from this precinct, the protestant obtained 228 votes while the protestee obtained 9 votes. In the revision, the protestee claimed the same number of votes while the protestant claimed one vote less, or 227.

No objection is raised as any of the ballots claimed by the protestee. Upon the other hand, 211 ballots claimed by

the protestant and marked Exhibits B, B-1 to B-210 are objected to by the protestee.

Exhibits B, B-1 to B-19, objected to as marked ballots, are admitted.

Exhibits B-20 and B-21 are rejected, it appearing from the face of the ballots that each of them was prepared by two persons.

Exhibits B-22 to B-210 are divided into 4 groups, each of which group is alleged to have been prepared by a single hand. The objection to these ballots is not justified by their appearance and all of them are admitted.

The protestant claimed 6 additional ballots, marked Exhibits F, F-1 to F-5, but waived his claim to Exhibits F-2 and F-3 in his memorandum. These two ballots are rejected.

In Exhibit F, the protestant is properly voted for Representative. At the back thereof, however, the words "Marked ballot" have been written in ink but without the signature of any election inspector. As this ballot was found in the box for valid ballots, it should be admitted, as it is hereby admitted, in the absence of evidence showing that it was deposited in the white box by mistake, in the same way that a ballot found in the red box should be rejected, whether or not it contains the notation "spoiled", unless sufficient evidence is presented to overturn the presumption that it is spoiled.

Exhibits F-1 and F-4, in which "Liberal" is written in the space for block-voting and "Quirno" in the space for President, are rejected, in accordance with the rule established in paragraph 20, section 149 of the Revised Election Code.

Exhibit F-5, where "E. Prnades" is written on the space for Representative, is admitted as a valid vote for the protestant under the rule of *idem sonans*.

Exhibits F-6 to F-10, found in the box for spoiled ballots and claim as to which has been renounced by the protestant in his memorandum, are rejected.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	16	Uncontested	9
Admitted	211	Admitted	0
Total	227	Total	9

Precinct 9:

According to the election return from this precinct, the protestant obtained 144 votes while the protestee obtained 9 votes. When the revisors opened the box for valid ballots, they found that corrosive substance had been poured

into it causing damage to ballots and other election documents contained therein. However, 9 ballots in which the protestee appears to have been voted for Representative could still be read, while only 140 ballots in which the protestant appears to have been voted for the same office were still readable. No evidence has been adduced as to the identity of the author or authors of this violation of the law.

Five of the aforesaid 9 ballots of the protestee were originally objected to by the protestant and marked as Exhibits F-1 to F-5. The objections, however, have been withdrawn in protestant's memorandum. Said ballots are, therefore, admitted for the protestee.

All the 140 ballots now claimed by the protestant and marked as Exhibits B-1 to B-140 are objected to by the protestee on several grounds.

The protestant contends that in determining the true number of votes cast in his favor in this precinct, the election return should be considered as the best evidence. We are not inclined to sustain this contention, because the disputed ballots have not been totally destroyed or disfigured to such an extent as to preclude an intelligent examination of their contents by this tribunal. As a matter of fact, the 140 ballots found by the revisors had been examined by us and their contents duly appreciated.

The rule generally expressed in the cases is that where after the election the ballots cast therein are shown not to have been kept and preserved in the manner required by law or that they have been tampered with or otherwise violated, they lose their character as primary evidence of the popular will, and the election return duly signed by the election inspectors becomes the best evidence of the result of the voting. (*Cailles vs. Gomez and Barbasa*, 42 Phil., 496; *Geukeko vs. Pascual*, 50 Phil., 221; *San Juan vs. Cornejo*, 52 Phil., 23; *Rimando vs. Jose*, Election Protest No. 3, ([E. C.], 6 L. J., 116.) But this rule requires for its application such destruction and disfigurement of the questioned ballots that their reconstruction or examination becomes impossible. In such cases, the true results of the voting must be discovered in some other documents which best contains the truth under the circumstances, and such a document is the election return prepared and kept in accordance with law. Where, as in the case at bar, the disputed ballots are still available, they constitute the best evidence of the result of the election, and it is from them that we must draw our findings and conclusions. In determining the true number of votes obtained by the parties in this precinct we have thus considered the ballots themselves as the primary evidence of their contents.

We have examined with utmost care and patience each and everyone of the 140 ballots claimed by the protestant

to enable us to resolve correctly the protestee's objections, and we are satisfied that the questioned ballots do not suffer from any of the defects pointed out by him and that the election inspectors appreciated them in accordance with law. The said objections are, therefore, hereby overruled.

Conformably to the foregoing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	0	Uncontested	4
Admitted	140	Admitted	5
Total	140	Total	9

Precinct 10:

According to the election return from this precinct, the protestant obtained 144 votes, while the protestee obtained 7 votes. In the revision, the protestee claimed the same number of votes while the protestant claimed 141 votes.

Six of the 7 ballots claimed by the protestee were originally objected to by the protestant and marked as Exhibits F-1 to F-6. The objection, however, has been withdrawn, except as to Exhibit F-6 which should be admitted because it has not been prepared by two hands, as alleged by the protestant. All the seven ballots are admitted.

Of the 141 ballots claimed by the protestant, 111 ballots, marked as Exhibits B-1 to B-111, are objected to by the protestee.

Exhibits B-1 to B-41, a group of 41 ballots, objected to as prepared by only one hand, are admitted.

Exhibits B-42 to B-46, B-47 to B-67, and B-68 to B-83 are objected to on the ground that each group had also been prepared by one single person. The Tribunal voted to sustain the objection as to Exhibits B-49, B-51, B-57 and B-58, which are hereby rejected. The remaining ballots are hereby admitted.

Exhibits B-84 to B-97, or a group of 14 ballots, are objected to on the ground that each had been prepared by two persons. The objection is overruled and the ballots are admitted.

Exhibits B-98 and B-99, objected to as illegal ballots, are admitted.

Exhibits B-100, B-101, B-102 and B-103, objected to as marked ballots, are admitted.

Exhibit B-104 is objected to as illegible. In the space for Representative, however, "Ferrandez", which is *idem sonans* with protestant's surname, can be clearly read. This ballot is admitted.

Exhibits B-105, B-106 and B-107, objected to as marked ballots, are admitted.

Exhibit B-108, objected to as prepared by two persons, is admitted.

Exhibits B-109, B-110 and B-111, objected to as marked ballots, are admitted.

Two additional ballots, marked Exhibits F-7 and F-8 and claimed by the protestant, should be rejected in accordance with a ruling on similar ballots. In Exhibit F-7, the voter wrote "Liberal" in the space for block-voting but at the same time wrote "Abada" in one of the spaces for Senator. In Exhibit F-8, the voter also wrote "Liberal" in the space for block-voting but, at the same time, wrote "Quirino Liberal Wing" in the space for President.

Exhibit B-112, claimed by the protestee, is rejected as stray vote, his name being written in the space for Vice-President.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	30	Uncontested	1
Admitted	107	Admitted	6
<hr/>		<hr/>	
Total	137	Total	7

Precinct 11:

According to the election return from this precinct, the protestant obtained 157 votes while the protestee obtained 8 votes. In the revision, the protestee claimed 9 votes while the protestant claimed 160 votes.

Two ballots claimed by the protestee and marked Exhibits F and F-1 were originally objected to by the protestant, but the objection has been waived as to Exhibit F-1. This exhibit is admitted.

Exhibit F is rejected, because the name of the protestee is written in a space for Senator.

Sixty-nine ballots claimed by the protestant are objected to by the protestee and marked Exhibits B, B-1 to B-68.

Exhibits B, B-1, B-2 and B-3 are rejected because the protestant's name does not appear in the proper space.

Exhibits B-4 to B-51 have been divided into several groups, each of which group is alleged to have been prepared by only one hand. The objection is not well taken and the ballots are admitted.

Exhibits B-52, B-53, B-54 and B-55 are objected to as marked ballots. These ballots are admitted.

Exhibits B-56 to B-67 are divided into two groups, each group being alleged to have been written by only one person. The objection is not well taken and the ballots are admitted.

Exhibit B-68 is objected to as prepared by two hands. The ballot is admitted.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	91	Uncontested	7
Admitted	65	Admitted	1
Total	156	Total	8

Precinct 12:

According to the election return from this precinct, the protestant obtained 159 votes while the protestee obtained 5 votes. In the revision the parties respectively claimed the same number of votes.

One ballot claimed by the protestee and marked Exhibit F is objected to by the protestant. This ballot, as well as two other ballots claimed by the protestant and marked Exhibits B-4 and B-5, are rejected because, judged by their appearance, they have been prepared by the same hand.

Fifty ballots claimed by the protestant and marked Exhibits B, B-1 to B-49 are objected to by the protestee.

Exhibit B is rejected inasmuch as the words written in the space for block-voting are "Lartas Party" which do not correspond to nor is it *idem sonans* with Liberal Party.

Exhibits B-1, B-2 and B-3 are objected to on the ground that each has been prepared by two persons. The objection is not well taken and these ballots are admitted.

Exhibits B-6 to B-49 are divided into 12 groups, each of which group is alleged to have been prepared by a single person. We have resolved to sustain the objection as regards Exhibits B-18, B-23, B-25, and B-27, which are hereby rejected. All the other ballots are admitted.

Two ballots, found in the red box and marked Exhibits F-1 and F-2, were originally claimed by the protestant. The claim has been waived and the ballots are rejected.

Summarizing, we find the relative standing of the parties in this precinct to be as follows:

FERNANDEZ		BAES	
Uncontested	109	Uncontested	4
Admitted	43	Admitted	0
Total	152	Total	4

SUMMARY

MUNICIPALITY OF LILIO

Precinct Number	FERNANDEZ			BAES		
	Uncon- tested	Admit- ted	Total	Uncon- tested	Admit- ted	Total
1	111	108	219	6	0	6
2	94	116	210	10	1	11
3	180	72	252	7	0	7
4	29	165	194	0	6	6
5	122	58	180	6	7	13
6	124	90	214	13	0	13
7	51	104	155	0	15	15

Precinct Number	FERNANDEZ			BAES		
	Uncon- tested	Admit- ted	Total	Uncon- tested	Admit- ted	Total
8	16	211	227	9	0	9
9	0	140	140	4	5	9
10	30	107	137	1	6	7
11	91	65	156	7	1	8
12	109	43	152	4	0	4
Total	957	1,279	2,236	67	41	108

MUNICIPALITY OF RIZAL

Precinct 1:

According to the election return from this precinct, the protestant obtained 165 votes while the protestee obtained 11 votes. In the revision, the parties respectively claimed the same number of votes.

Only one ballot claimed by the protestee, and marked as Exhibit F, is objected to by the protestant. On this ballot "Avelino Wing" is written in the space for President. This ballot is rejected.

Forty-four ballots, claimed by the protestant and marked Exhibits B, B-1 to B-43, are objected to by protestee.

In Exhibit B, the name "Isidro Urriquia", who was not a candidate for any office, appears in the 8th space for Senator. The ballot is admitted.

In Exhibit B-1, the words "Lekas na lekas" appear in the first space for Senator. These words by themselves do not necessarily constitute a distinguishing mark. The ballot is admitted.

In Exhibit B-2, the words "Ala Ala Kita" appear in the space for block-voting after the words "Quirino Liberal". These words, though impertinent, may also be considered as a mere expression of endearment written in good faith. The ballot is admitted.

In Exhibit B-3 the name "Juan Bigti" appears in one of the spaces for Senator. The ballot is admitted.

In Exhibit B-4, the words "Esh sa lipat" appear in the second space for Senator. This expression does not convey any meaning in the Tagalog dialect. We have decided to disregard this expression and admit the ballot.

Exhibits B-5 to B-18 are objected to on the ground that each had been written by more than one hand. The objection is not well taken and these ballots are admitted.

Exhibits B-19, B-20, B-21 and B-22 are admitted because the names written in the space for Representative correspond to that of the protestant.

Exhibit B-23 is admitted. The fact that the voter wrote "Jose O. Vera" in the space for President does not render the ballot invalid as marked.

Exhibits B-24 to B-27 are rejected, because they appear to have been prepared by the same hand.

Exhibits B-28 to B-36, objected to as written by the same hand, are admitted.

Exhibits B-37 to B-43, except B-43, are rejected for having been prepared by the same hand.

Four additional ballots claimed by the protestant and marked Exhibits F-1 to F-4, are rejected, said candidate having renounced his claim because he had not been properly voted for therein.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	121	Uncontested	10
Admitted	34	Admitted	0
Total	155	Total	10

Precinct 2:

According to the election return from this precinct, the protestant obtained 203 votes while the protestee obtained 2 votes. In the revision, the protestee claimed the same number of votes while the protestant claimed only 202 votes.

No vote of the protestee is contested. Upon the other hand, 82 ballots claimed by the protestant and marked Exhibits B-1 to B-82, are objected to by the protestee.

Exhibit B-1 is admitted in favor of the protestant. In this ballot, the voter cancelled "Avelin" written in the first space for Senator and wrote "Liberal" in the space for block-voting.

In Exhibit B-2, the words "Likas na Likas" and in Exhibit B-3, the name of "Camilio Osias" appear in the first space for Senator. These ballots are admitted.

Exhibit B-4 is rejected because only "Taning" which does not sufficiently identify the protestant, appears in the space for Representative. (See paragraph 9, section 149 of the Revised Election Code.)

We have examined carefully ballots marked Exhibits B-5 to B-82 and considered them in the light of the different objections interposed by the protestee. We have come to the conclusion, and so hold, that said ballots do not suffer from any of the defects alleged by the protestee. These ballots are admitted.

Exhibits F-2 and F-7, claimed by the protestant, are rejected. In these ballots, the voter wrote "Liberal" in the space for block-voting but, at the same time, wrote "E. Fernandez" in the space for President and Vice-President, respectively. (See paragraph 20, section 149, Revised Election Code.)

Exhibits F-1, F-3, F-4, F-5 and F-6 are rejected because the protestant is voted for in wrong spaces.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	120	Uncontested	2
Admitted	81	Admitted	0
<hr/>		<hr/>	
Total	201	Total	2

Precinct 3:

According to the tally sheet from this precinct (no election return having been found in the ballot box) the protestant obtained 197 votes while the protestee obtained 12 votes. During the revision, the protestant claimed the same number of votes while the protestee claimed only 11 votes.

Eight ballots, marked Exhibits F, F-1 to F-7 and claimed by the protestee, were originally objected to by the protestant who has, however, waived his objection, except as to Exhibit F. Exhibits F-1 to F-7 are, therefore, admitted.

Exhibit F is objected to as marked on the ground that after writing the name of the protestee in the space for Representative, the voter wrote "Estanislao Fernandez" in the space for Senator. This ballot is admitted in favor of the protestee.

One hundred forty-eight (148) ballots, claimed by the protestant and marked Exhibits B, B-1 to B-147, are objected to by the protestee.

Exhibit B, admitted by the protestant to be invalid, is rejected, because it contains the following impertinent expressions written by an undeserving elector: "Joe Laurel" in the space for President, and "Marcelo Addobo", "Claro ng Itlog", "Joe Tandoc", "Jose Vera Son", "Lorenzo Sulong ka Daniel", "Alejo Banaag" and "Legarda Sampaloc" in the spaces for Senator.

Exhibits B-1 to B-147 are objected to on various grounds which, after careful examination of the ballots, we have found to be without merit. We have, therefore, resolved to admit, as we hereby admit, said ballots in favor of the protestant.

In Exhibits F-8 to F-12, the protestant is voted for Vice-President and President, respectively. The ballots are rejected.

Exhibit F-13 is admitted since the protestant's name appears just below the line for Representative.

Exhibits F-14 and F-15, claimed by the protestant and taken from the box for spoiled ballots, are rejected. The notation "spoiled" appears at the back of these ballots and there is absolutely no evidence that they were deposited in the red box by mistake.

Exhibits B-148 and B-149, claimed by the protestee, are likewise rejected. In Exhibit B-148, "Avelino Leberal" is written in the space for President, and in Exhibit B-149, although "Jose Avelino Livial" is written in the space for

block-voting, "Vicente Francisco" appears in the space for Vice-President, thus making the ballot valid only for this candidate.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	49	Uncontested	3
Admitted	148	Admitted	8
<hr/>		<hr/>	
Total	197	Total	11

Precinct 4:

According to the election return from this precinct, the protestant obtained 150 votes while the protestee obtained 7 votes. In the revision, the protestant claimed 149 votes and the protestee 6 votes.

The six ballots claimed by the protestee and marked Exhibits F, F-1 to F-5 were originally objected to by the protestant, but the objection has been withdrawn and these ballots are admitted.

Twenty-seven ballots claimed by the protestant and marked Exhibits B, B-1 to B-25 and B-6a, are objected to by the protestee.

Exhibits B, B-1 to B-6 and B-6a, objected to as marked ballots, are admitted.

In Exhibit B-7, the word "Leberar" is written in the space for block-voting. This ballot is admitted under the rule of *idem sonans*.

Exhibits B-8 to B-25 are objected to on various grounds. We have examined carefully each and every one of these ballots and have found them to be in all respects valid votes for the protestant. These ballots are admitted.

Exhibits F-6 and F-7, claim as to which has been renounced by the protestant, are rejected, the name of this candidate having been written in the corresponding spaces for Vice-President.

Exhibits B-29 and B-30, also marked Exhibits F-9 and F-10, found in the red box, and claim as to which has also been waived by the protestant, are likewise rejected.

Exhibit B-8, also marked Exhibit B-28, claimed by the protestee, is admitted. On this ballot, the voter wrote "Abelino Partey" in the space for block-voting, all other spaces being blank.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	122	Uncontested	0
Admitted	27	Admitted	7
<hr/>		<hr/>	
Total	149	Total	7

SUMMARY

MUNICIPALITY OF RIZAL

Precinct Number	FERNANDEZ			BAES		
	Uncon- tested	Admit- ted	Total	Uncon- tested	Admit- ted	Total
1	121	34	155	10	0	10
2	120	81	201	2	0	2
3	49	148	197	3	8	11
4	122	27	149	0	7	7
Total	412	290	702	15	15	30

MUNICIPALITY OF NAGCARLAN

Precinct 1:

According to the election return from this precinct, the protestant obtained 53 votes while the protestee obtained no vote at all. In the revision, the protestant claimed the same number of votes while the protestee claimed none.

Thirteen ballots, claimed by the protestant and marked Exhibits B, B-1 to B-12, are objected to by the protestee.

Exhibits B, B-1 to B-4, B-6 and B-7, are objected to on the ground that each of them had been prepared by two persons. The objection is unfounded and all these ballots are admitted.

Exhibit B-5 is objected to as marked by the words "Amo Amaban" in the first space for Senator. There must have been an honest effort to write the name of A. Mabanag, a candidate for Senator. This ballot is admitted.

Exhibit B-8 is admitted. What is written in the space for Representative is "E. Ernandez". The omission of the first letter "F" in writing the surname is not a fatal defect, inasmuch as the name written is *idem sonans* with the correct name of the protestant.

Exhibits B-9 and B-10, objected to on the ground that they were written by one and the same person, are admitted.

Exhibits B-11 and B-12, objected to as marked ballots, are admitted. The name "Lorenzo Vera" in the 6th space for Senator in the first exhibit and which may refer to "Jose O. Vera" who was a candidate for that office, as well as the name "Juci Avelino" in a similar space in the second exhibit, do not constitute identification marks.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	40	Uncontested	0
Admitted	13	Admitted	0
Total	53	Total	0

Precinct 2:

According to the election return from this precinct, the protestant obtained 39 votes while the protestee obtained 3 votes. In the revision, the parties claimed the same number of votes.

No ballot of the protestee has been objected to. Protestee's revisors, however, objected to 20 ballots of the protestant, marked Exhibits B-1 to B-20. All of these exhibits are admitted on the ground that the objections thereto are untenable.

The names "Isidro Monteagudo" and "Vicente Benitez" in Exhibit B-1 and the word "oke" appearing in the 8th space for Senator in Exhibit B-2, do not constitute identification marks.

In Exhibits B-3 and B-4, the surname of the protestant was simply erased and then rewritten by the same hand.

Exhibit B-5 appears to have been prepared by only one and not by two persons.

Exhibits B-6 and B-7 appear to have been written each by a different hand and not by one hand.

The same objection with respect to Exhibits B-8 to B-13, and to B-14 to B-20, is overruled.

Exhibit F-1, claimed by the protestant in the revision, is rejected. This ballot was found in the red box and claim thereto has been withdrawn by the protestant himself.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	19	Uncontested	3
Admitted	20	Admitted	0
<hr/>		<hr/>	
Total	39	Total	3

Precinct 3:

According to the election return from this precinct, the protestee obtained 3 votes while the protestant obtained 25 votes. In the revision, the protestant claimed 28 votes while the protestee claimed 3 votes also.

No ballot of the protestee is objected to. Upon the other hand, the protestee objects to 16 ballots of the protestant, marked Exhibits B, B-1 to B-15.

The name of the protestant is legibly written in Exhibit B-2 which is hereby admitted.

Exhibits B and B-1, renounced by protestant in his memorandum, are rejected as stray votes.

Exhibits B-3 to B-15, objected to as marked because the name of the protestant was written with the full surname accompanied only by the initial of the first name, whereas the names of the other candidates were written in full, are also admitted.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	12	Uncontested	3
Admitted	14	Admitted	0
<hr/>		<hr/>	
Total	26	Total	3

Precinct 4:

According to the tally sheet from this precinct (no election return having been found in the ballot), the protestee obtained 2 votes, while the protestant obtained 56 votes. In the revision, the parties claimed the same number of votes.

No ballot of the protestee has been objected to. The protestee objects to 11 ballots of the protestant, marked Exhibits B, B-1 to B-10. The objections that Exhibits B and B-1 were each prepared by two hands, that Exhibit B-2 is illegible, that the other ballots can be divided into 3 groups of two ballots each and that each of said groups, has been prepared by a single hand, are untenable. Consequently, all these ballots are admitted.

Summarizing, we find the relative standing of the parties in this precinct to be as follows:

FERNANDEZ		BAES	
Uncontested	45	Uncontested	2
Admitted	11	Admitted	0
<hr/>		<hr/>	
Total	56	Total	2

Precinct 5:

According to the election return from this precinct, the protestee obtained 3 votes while the protestant obtained 91 votes. In the revision, the parties claimed the same number of votes.

No ballot of the protestee has been objected to. The protestee, however, objects to 26 ballots of the protestant, marked Exhibits B, B-1 to B-25. All these ballots are admitted.

Exhibits B, B-3, B-4 and B-5 are not marked ballots. The name "Elpidio Quirino" in the 8th space for Senator in Exhibit B is not a distinguishing mark. Neither are the words "Nacionalista Party" appearing in a space for Senator on Exhibit B-3. Exhibits B-4 and B-5 do not also reveal any identification marks.

Exhibits B-1, B-2 and B-6 show that each had been written by only one hand.

Exhibit B-7 to B-11 do not appear to have been written by only one hand. The same observation is made with respect to Exhibits B-12 to B-19, and Exhibits B-20 to B-25.

The protestant claims an additional ballot, Exhibit F. The same is admitted in his favor. In the space for Representative, what appears is "E. Fernodz" which is *idem sonans* with the protestant's name.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	65	Uncontested	3
Admitted	27	Admitted	0
Total	92	Total	3

Precinct 6:

According to the election return from the this precinct, the protestant obtained 18 votes while the protestee obtained no vote at all. The protestee objects to 11 ballots claimed by the protestant and marked as Exhibits B-1 to B-11.

Exhibits B-1, B-7, B-9, B-10 and B-11 are objected to as prepared each by two hands. The objection is without basis and the ballots are admitted.

In Exhibits B-2 to B-6, the names appearing in the corresponding spaces for Representative, though poorly written, sufficiently identify the protestant, for which reason they are admitted.

In Exhibit B-8, we read the name "E. Ternandez" in the space for Representative. This ballot is admitted.

Exhibit F-1, originally claimed by the protestant, but renounced by him in his memorandum, is rejected.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	7	Uncontested	0
Admitted	11	Admitted	0
Total	18	Total	0

Precinct 7:

According to the election return from this precinct, the protestant obtained 30 votes while the protestee received no vote at all. During the revision, the same results were found.

Two ballots, Exhibits B-1 and B-2, claimed by the protestant, are objected to by protestee as marked ballots. These ballots are admitted, as no distinguishing marks appear thereon.

Two additional ballots claimed by the protestant and marked Exhibits F-1 and F-2, but renounced by him as stray votes, are rejected.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	28	Uncontested	0
Admitted	2	Admitted	0
<hr/>		<hr/>	
Total	30	Total	0

Precinct 8:

According to the election return from this precinct, the protestant obtained 164 votes while the protestee obtained one vote. In the revision, the protestant claimed 170 votes while the protestee claimed the same number of vote.

No objection is raised against the lone vote for the protestee. The protestee, however, objects to 34 ballots claimed by the protestant and marked Exhibits B, B-1 to B-33.

Exhibits B-1 to B-5 are rejected as stray votes.

In Exhibit B, "E. Fer" is written in the space for Representative. The intention to vote for the protestant is manifest and the ballot is admitted.

Exhibit B-6, in which "E. Pernaluz" is written in the space for Representative, is likewise admitted under the rule of *idem sonans*.

Exhibits B-7 to B-33 are objected to on various grounds. We have carefully examined each and every one of these ballots in the light of the objections raised against them, and found the objections to be without merit. These ballots are admitted.

Two ballots taken from the box for spoiled ballots, marked Exhibits F and F-1 are originally claimed but later renounced by the protestant, are rejected.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	136	Uncontested	1
Admitted	29	Admitted	0
<hr/>		<hr/>	
Total	165	Total	1

Precinct 9:

According to the election return from this precinct, the protestant obtained 35 votes while the protestee obtained 7 votes. In the revision, the parties respectively claimed the same number of votes.

Two ballots, claimed by the protestee and marked Exhibits F-1 and F-2, were originally objected to by the protestant. The objection has been withdrawn, and these ballots are admitted.

Seven ballots, claimed by the protestant and marked Exhibits B-1 to B-7, are objected to by the protestee. We have carefully examined each and every one of these ballots and found the objections to be without merit. Exhibit B-1 contains the name of the party of which the protestant is official candidate in the space for block-voting. Exhibit B-2 is not marked simply because "Fruend" has been

written in the 4th space for Senator. The other ballots have not been prepared by two hands each. These ballots are admitted.

Exhibits F-3 and B-8, taken from the box for spoiled ballots and claimed by the protestant and by the protestee, respectively, are rejected, there being no evidence that they were deposited in said box by mistake.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	28	Uncontested	5
Admitted	7	Admitted	2
<hr/>		<hr/>	
Total	35	Total	7

Precinct 10:

According to the election return from this precinct, the protestant obtained 25 votes while the protestee obtained 7 votes. In the revision, the parties respectively claimed the same number of votes.

Two ballots, claimed by the protestant and marked Exhibits F and F-1, were originally objected to by the protestant. The objection has been renounced and these ballots are admitted.

Eight ballots, claimed by the protestant and marked Exhibits B, B-1 to B-7, are objected to by the protestee. All these ballots are admitted. The objection that Exhibits B, B-1 to B-3 were prepared by only one hand and that Exhibits B-4 to B-6 were prepared by another hand, is not sustained by the appearance of the ballots themselves.

In Exhibit B-7, the name "E. Farnades", which is *idem sonans* with protestant's name, is written in the space for Representative.

Exhibit F-2, originally claimed by the protestant but renounced by him in his memorandum, is rejected. The name of the protestant in this ballot appears in one of the spaces for Senator.

Exhibit F-3, found in the box for spoiled ballots, claimed by the protestant but later on renounced by him, is rejected.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	17	Uncontested	5
Admitted	8	Admitted	2
<hr/>		<hr/>	
Total	25	Total	7

Precinct 11:

According to the election return from this precinct, the protestant obtained 50 votes, while the protestee obtained no vote at all. The revisors found 48 ballots for the protestant and none for the protestee.

The protestee objects to 5 ballots of the protestant, marked Exhibits B, B-1 to B-4. These ballots are admitted. In Exhibit B, we read "E. Fernadez", which is *idem sonans* with the protestant's name, in the space for Representative. In Exhibit B-1, the fact that protestant's name is written in the space for Representative in capital letters does not constitute a distinguishing mark. Neither do we find any distinguishing mark on Exhibit B-2. Exhibit B-3 appears to have been prepared by only one person, contrary to the contention of the protestee. The same observation applies to Exhibit B-4.

Four additional ballots, marked Exhibits B-5, B-6, B-7 and B-8, also marked as Exhibits F, F-1, F-2 and F-3, respectively, are claimed by the protestant.

Exhibits B-5 and B-7 are rejected because the name of the protestant is not written in the space for Representative.

The majority of the members of the Tribunal vote to admit Exhibit B-6. In this ballot, the name of the protestant is written below his printed name in the column of official candidates of the Liberal Party.

Exhibit B-8 is admitted. In the space for Representative, we read "E. Prnanliz", which is *idem sonans* with the name of the protestant.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	43	Uncontested	0
Admitted	7	Admitted	0
Total		Total	
50		0	

Precinct 12:

According to the election return from this precinct, the protestant obtained 80 votes, while the protestee obtained 1 vote. In the revision, the parties respectively claimed the same number of votes.

The lone vote of the protestee is not contested. Twenty-one ballots claimed by the protestant and marked Exhibits B-1 to B-21, however, are objected to by the protestee. All these ballots are admitted in favor of the protestant.

In Exhibit B-1, we read "E. Pernandis" in the space for Representative.

In Exhibit B-2, we read "E. Pirnandiz" in the space for Representative.

In Exhibit B-3, "E. Ternandez" appears in the correct space.

Exhibits B-4 and B-5, B-6 and B-7, B-8 to B-11, B-12 to B-14, B-15 and B-16, and B-17 and B-18, objected to on the ground that each group had been written by only one hand, are admitted.

Exhibit B-19, is admitted because it had been prepared by only one hand, contrary to the contention of the protestee.

We find no distinguishing marks in Exhibits B-20 and B-21 and, therefore, admit them.

Summarizing, we find the relative standing of the parties in this precinct, as follows:

FERNANDEZ		BAES	
Uncontested	59	Uncontested	1
Admitted	21	Admitted	0
<hr/>		<hr/>	
Total	80	Total	1

Precinct 13:

According to the election return from this precinct, the protestant obtained 123 votes while the protestee obtained 5 votes. In the revision, the protestee claimed the same number of votes while the protestant claimed 122 votes.

No objection was raised against any ballot claimed by the protestee. However, the protestee objected to 17 ballots claimed by the protestant and marked as Exhibits B, B-1 to B-16. We have carefully examined each and every one of these ballots in the light of the objections interposed by the protestee and we are satisfied that they are all valid votes for the protestant.

In Exhibit B, what is written in the space for block-voting is "Leveral Party." This ballot is admitted.

In Exhibit B-1, the erasures in the surnames "Somulong" and "Paredes" obviously do not constitute distinguishing marks. This ballot is admitted.

Exhibit B-2 is also admitted. The fact that there is an "x" in the space for Vice-President does not render the ballot invalid. It merely shows that the voter desisted from casting his vote for Vice-President.

In Exhibit B-3, "Lival Party" is written in the space for block-voting. This ballot is admitted.

Exhibits B-4 to B-46, B-7 to B-9, B-10 and B-11, B-12 to B-14 and B-15 and B-16, appear to have been prepared by distinct hands and are all admitted.

An additional ballot, marked Exhibit F, is claimed by the protestant. In this ballot, "Liberal" is written somewhat below the space for party or block-voting. This ballot is admitted.

Summarizing, we find the relative standing of the parties in this precinct, as follows:

FERNANDEZ		BAES	
Uncontested	106	Uncontested	5
Admitted	18	Admitted	0
<hr/>		<hr/>	
Total	124	Total	5

Precinct 14:

The election return from this precinct shows that the protestant obtained 83 votes while the protestee obtained 2 votes. In the revision, the parties respectively claimed the same number of votes.

No objection is raised against the 2 ballots claimed by the protestee. However, eight ballots claimed by the protestant and marked as Exhibits B-1 to B-8, are objected to by the protestee. We have examined carefully each of these ballots and found the objections to be unfounded. These ballots are, therefore, admitted.

In Exhibit B-1, the word written in the space for block-voting is "Leberala", which is *idem sonans* with Liberal.

In Exhibit B-2, "E. Fernandez" is written with a slightly heavier pressure than was used in writing "Jose Laurel" in the space for President. This fact alone does not render the ballot marked.

Exhibit B-3 bears a uniform handwriting, thus belying the contention that two persons intervened in its preparation. The same observation applies with respect to Exhibit B-4.

In Exhibits B-5 to B-8, the Tribunal found no distinguishing marks whatsoever.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	75	Uncontested	2
Admitted	8	Admitted	0
<hr/>		<hr/>	
Total	83	Total	2

Precinct 15:

According to the election return from this precinct, the protestee obtained 4 votes while the protestant obtained 42 votes. In the revision, the protestant claimed the same number of votes while the protestee claimed 2 votes. No ballot claimed by the protestee is contested.

Two ballots claimed by the protestant and marked Exhibits B and B-1 are objected to by the protestee, the first as illegible and the second as marked ballot. On the first ballot "Estanigas Fernandiiz" can be clearly read in the space for Representative. This ballot is admitted under the rule of *idem sonans*. On the other ballot, the dots above the letter "i's", forming a small circle, do not constitute a distinguishing mark. Paragraph 17 of section 149 of the Revised Election Code expressly provides that dots put by the voter in other parts of the ballot shall be considered innocent and shall not invalidate the ballot unless it is shown clearly that they had been deliberately put by the voter to serve as identification marks. This ballot is also admitted.

One additional ballot, marked Exhibit B-2 is claimed by the protestee. On this ballot, "Avelino Wing" is written in the space for party voting. Conformably to our ruling on a similar ballot, this exhibit is admitted as a valid vote in favor of the protestee.

Summarizing, we find the relative standing of the parties in this precinct, as follows:

FERNANDEZ		BAES	
Uncontested	40	Uncontested	3
Admitted	2	Admitted	1
<hr/>		<hr/>	
Total	42	Total	4

Precinct 16:

According to the election return from this precinct, the protestant obtained 64 votes while the protestee obtained 4 votes. In the revision, the parties claimed the same number of votes.

The protestant originally objected to only one ballot of the protestee, marked Exhibit F. The objection has been withdrawn and this exhibit is admitted.

The protestee objects to 8 ballots of the protestant marked Exhibits B, B-1 to B-7. We have examined each and every one of these ballots in the light of the objections offered by the protestee, and we have found that they are good and valid votes for the protestant, for which reason they are admitted.

In Exhibit B, the fact that the name "Feliciano Ambas" who was not a candidate for any office, was written in the space for Senator, does not render the ballot marked.

Exhibit B-1 shows that it had been prepared by only one hand, contrary to the contention of the protestee.

In Exhibit B-2, we read in the space for Representative "E. Fernandez" preceded by the prefix "Rep." (See paragraph 5, section 149, Revised Election Code.)

In Exhibit B-3, the voter wrote "E. Fernandez" although some of the letters are somewhat blurred by indelible pencil stains.

Exhibits B-4 and B-5 show that each had been prepared by a distinct hand. The same observation applies to Exhibits B-6 and B-7.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	56	Uncontested	3
Admitted	8	Admitted	1
<hr/>		<hr/>	
Total	64	Total	4

Precinct 17:

Considerable evidence had been adduced by the protestant in regard to this precinct as well as Precinct 11 of Pagsan-

jan. The purpose was to explain the great discrepancy between the number of votes appearing in the election returns from both precincts and the contents of the ballots when the boxes were opened by the revisors. In fairness to both parties, and to set forth fully the reasons for our conclusions with respect to these precincts, we are reserving the discussion of our findings and the considerations on which they are based in the later part of this decision. However, to avoid an interruption in our summary of the votes in each precinct, we shall mention herein the relative standing of the parties in Precinct No. 17 based on the conclusions we have reached, as follows:

FERNANDEZ		BAES	
Uncontested	60	Uncontested	1
Admitted	16	Admitted	2
<hr/>		<hr/>	
Total	76	Total	3

Precinct 18:

According to the election return from this precinct, the protestant obtained 110 votes while the protestee obtained 1 vote. In the revision, the protestee claimed his lone vote while the protestant claimed only 109 votes. The only vote for the protestee is not contested and is hereby admitted.

Protestee objects to 6 ballots of the protestant marked Exhibits B, B-1 to B-5.

Exhibit B, objected to as marked ballot, is admitted.

Exhibit B-1, objected to as illegible and as marked, is admitted. We read in the space for Representative the name "E. Fernandez". Upon the other hand, we find no distinguishing mark whatsoever on this ballot.

Exhibit B-2, objected to as illegible, is admitted. We read in the space for party voting the word "Liberl". The omission of the letter "a" is inconsequential and the ballot is admitted.

Exhibit B-3 is objected to because what is written in the space for party voting is "Libarul Quirin ning". Obviously, the voter intended to write "Liberal Quirino Wing". This ballot is admitted.

Exhibits B-4 and B-5, objected to as written by the same hand, are admitted.

Two additional ballots were originally claimed by the protestant who, however, has waived one of them, marked Exhibit F-1 and which is hereby rejected. The other ballot marked Exhibit F is admitted. In the space for party voting in said ballot, the voter wrote "Liberal" below the dotted lines but within the rectangle reserved for the purpose.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	103	Uncontested	1
Admitted	7	Admitted	0
Total	110	Total	1

Precinct 19:

According to the election return from this precinct, the protestant obtained 51 votes while the protestee obtained 6 votes. In the revision, the parties respectively claimed the same number of votes.

The protestant originally objected to 2 ballots claimed by the protestee, marked Exhibits F and F-1. The objection to Exhibit F has been withdrawn and this ballot is admitted.

Exhibit F is likewise admitted. In the space for party voting we read "Avelino Lebedro" which is *idem sonans* with Avelino Liberal.

The protestee objects to 18 ballots claimed by the protestant and marked Exhibits B, B-1 to B-17.

Exhibit B, objected to as marked ballot, is admitted, The fact that the voter wrote the names of persons who were not candidates for Senator in the spaces reserved therefor, does not, in itself, constitute a distinguishing mark.

Exhibit B-1 is also admitted. The name "C. Briones" written in the space for Representatives does not in itself constitute a distinguishing mark. As "Briones" was not a candidate for Representative, the vote in his favor is stray and should be disregarded.

Exhibit B-2 is admitted. "Estanalao Ferndis" appearing in the space for Representative is *idem sonans* with the protestant's name.

Exhibit B-3, objected to as written by two different persons, is admitted. The ballot shows that the same was prepared by only one hand.

Exhibit B-4 is objected to because the words "All Nacionalista candidate" appear written in the first space for Senator. That fact alone cannot annul the ballot. Presumably, the voter intended to vote for all the candidates of the Nacionalista Party for Senator. His vote was, of course, ineffectual under the law, but his error in that respect should not be permitted to annul the good vote he has cast in favor of other candidates for other offices.

The objection to Exhibits B-5 to B-7 that they have been prepared by only one person, has no merit and the ballots are admitted.

Exhibits B-8 to B-11, objected to as marked ballots, are admitted.

Exhibits B-12 to B-14, objected to as prepared by only one hand, are admitted.

Exhibits B-5, B-6 and B-7 are objected to as marked ballots. The fact that the word "Liberal" was written after "E. Fernandez" in the space for Representative in Exhibit B-5; that a fingerprint appears in Exhibit B-6; and that the initial letters of "Jose B. Laurel" are heavily shaded in Exhibit B-7, does not necessarily render the corresponding ballot marked. All three ballots are admitted.

Exhibits B-8 to B-14 are alleged to have been prepared each by two persons. The objection is not well taken and the ballots are admitted.

Two additional ballots, originally claimed but later renounced by the protestant and which have been marked Exhibits F-1 and F-2, are hereby rejected because the name of said protestant appear in the wrong space.

An additional ballot marked Exhibit B-15 is claimed by the protestee. This ballot is rejected for the same reason.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	50	Uncontested	0
Admitted	14	Admitted	0
Total		Total	
	64		0

Precinct 22:

According to the election return from this precinct, the protestee obtained 7 votes while the protestant obtained 69 votes. In the revision, the protestee claimed the same number of votes while the protestant claimed 73 votes.

All the votes claimed by the protestee are not contested.

The protestee objects to 16 ballot claimed by the protestant, marked Exhibits B, B-1 to B-15. The protestant agreed to his memorandum that Exhibits B, B-1 to B-3 be, as they are hereby, rejected. In Exhibits B and B-1, the word "Liberal" was written in the space for party voting and the names of some candidates appear in some spaces, the space for Representative being blank. In Exhibit B-2, the name of the protestant was written in the space for President, and in Exhibit B-3, it was written in the first space for Senator.

Exhibits B-4 to B-15 are admitted. In Exhibit B-4, we read in the space for Representative the name "E. Fernana" which is *idem sonans* with the name of the protestant. Exhibits B-5 and B-6, B-7 to B-9, and B-10 to B-15 are objected to on the ground that each group had been prepared by only one person. Our examination of these ballots shows such differences in the handwriting that each ballot must have been prepared by a distinct hand.

Summarizing, we find the relative standing of the parties in this precinct, as follows:

FERNANDEZ		BAES	
Uncontested	57	Uncontested	7
Admitted	12	Admitted	0
Total	69	Total	7

Precinct 23:

According to the election return from this precinct, the protestee obtained 5 votes, while the protestant obtained 53 votes. In the revision, the revisors classified the ballots in the same manner.

One ballot, claimed by the protestee and marked Exhibits F, was originally objected to by the protestant as having been prepared by two hands. The objection has been waived and this ballot is admitted.

Upon the other hand, protestee objects to 45 ballots of the protestant, marked Exhibits B, B-1 to B-44.

Exhibits B, B-1 and B-2, objected to as prepared each by two persons, are admitted.

Exhibits B-3 to B-28 and B-29 to B-44 are two groups of ballots objected to on the ground that they were illegally prepared. We agree with the protestee that these ballots and their coupons were collectively cut from the book of ballots with a sharp instrument. However, there is no evidence that the ballots were prepared by persons other than the voters themselves. The mistake or irregularity must have been committed in good faith by election officers which acts should not prejudice the innocent electors and the candidate of their choice. The ballots are admitted.

Protestant claims 2 additional ballots, marked Exhibits F-1 and F-2. In Exhibit F-1, "E. Fernandez" and "Liberal" are written in the space for party voting. The name of the protestant written by the voter in that portion of the ballot is a mere superfluity and should be disregarded. This ballot is admitted. Exhibit F-2, however, in which "Liberal" is written in the space for party voting while "E. Fernandez" is written in the space for President, is rejected.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	8	Uncontested	4
Admitted	46	Admitted	1
Total	54	Total	5

SUMMARY

MUNICIPALITY OF NAGCARLAN

Precinct Number	FERNANDEZ			BAES		
	Uncon- tested	Admitted	Total	Uncon- tested	Admit- ted	Total
1	40	13	53	0	0	0
2	19	20	39	3	0	3

3	12	14	26	3	0	3
4	45	11	56	2	0	2
5	65	27	92	3	0	3
6	7	11	18	0	0	0
7	28	2	30	0	0	0
8	136	29	165	1	0	1
9	28	7	35	5	2	7
10	17	8	25	5	2	7
11	43	7	50	0	0	0
12	59	21	80	1	0	1
13	106	18	124	5	0	5
14	75	8	83	2	0	2
15	40	2	42	3	1	4
16	56	8	64	3	1	4
17	60	16	76	1	2	3
18	103	7	110	1	0	1
19	33	18	51	4	2	6
20	33	15	48	0	0	0
21	50	14	64	0	0	0
22	57	12	69	7	0	7
23	8	46	54	4	1	5
Total	1,120	334	1,454	53	11	64

MUNICIPALITY OF PAGSANJAN

Precinct 1:

According to the election return from this precinct, the protestee obtained 40 votes while the protestant obtained 127 votes. In the revision, the parties respectively claimed the same number of votes.

The protestee objects to 14 ballots of the protestant, marked Exhibits B, B-1 to B-13.

Exhibit B is objected to as marked ballot, on the ground that the names of the candidates voted for therein are written in green ink. This ballot is admitted under paragraph 10 of section 149 of the Revised Election Code.

In Exhibit B-1, the name written in the space for Representative is "E. Fernadz", which is *idem sonans* with the protestant's name. This ballot is also admitted.

In Exhibit B-2, the name written in the space for Representative is "Peonandez" which is *idem sonans* with the protestant's name. This ballot is admitted.

Exhibit B-3, objected to as marked, because "Rado" is written in one of the spaces for Senator, is admitted. The voter must have intended to write "Recto" but met with great difficulty in forming the letters "c" and "t".

Exhibits B-4, B-5 and B-6 are objected to as marked ballots, because the voter wrote "Hernandez" or "Pedro C. Hernandez" in one space for Senator in each ballot. These ballots are admitted as these names in themselves do not constitute an identification mark. Besides, the voters might have intended to vote for "Pedro C. Hernaez" who was a candidate for a Senator.

Exhibits B-7 and B-8, objected to as marked ballots because "Avelino Wing" is written in the space for Pres-

ident in the first exhibit and "Avelino Liberal" is written on the same space in the second exhibit, are admitted.

Exhibits B-9 and B-10, objected to as marked ballots, are likewise admitted, as we find no identification marks in any of them.

Exhibits B-11, B-12 and B-13 are objected to on the ground that they have been written by only one hand. The objection is not well taken and the ballots are admitted.

The protestant objects to 6 ballots claimed by the protestee and marked Exhibits F, F-1 to F-5. We have considered carefully the objections and find them to be without merit. These ballots are admitted.

The protestant claims 5 additional ballots marked Exhibits F-6, F-7, F-8, F-9 and F-10.

Exhibit F-9 is admitted. On this ballot, "Laurel", "Briones", and "E, Fernandez" are written in an inverted manner in the 8th, 7th and 6th spaces for senator, respectively. The voter who prepared this ballot is of scant education, as shown by his poor handwriting and must have committed the honest mistake of inverting the ballot for the purpose of writing the names of his candidates for President, Vice-President and Representative in the order in which they should be written. The intention to vote for the protestant for the proper office seems evident and the majority of the members of the Tribunal agreed to admit this ballot.

Exhibits F-6, F-7, F-8 and F-10 are rejected as stray, since the name of the protestant was written in the spaces for Vice-President on these ballots.

The protestee claims 4 additional ballots marked Exhibits B-14 to B-17. On all these ballots, the protestee is voted for in the wrong space, for which reason the ballots are rejected.

Summarizing, we find the relative standing of the parties in this precinct to be as follows:

FERNANDEZ		BAES	
Uncontested	113	Uncontested	34
Admitted	15	Admitted	6
<hr/>		<hr/>	
Total	128	Total	40

Precinct 2:

According to the election return from this precinct, the protestee obtained 31 votes while the protestant obtained 46 votes. In the revision, the protestee claimed 30 votes while the protestant claimed 47 votes.

The protestee objects to 13 ballots of the protestant, marked Exhibits B, B-1 to B-12.

Exhibit B, objected to as having been prepared by two hands, is admitted.

two persons, is rejected, the objection being well-founded.

Exhibits B-2 and B-3, objected to as having been prepared by only one person, are admitted.

Exhibits B-4 and B-5, objected to on the same ground, are admitted.

Exhibits B-6 to B-8, objected to as marked with names of persons who were not candidates, are admitted.

Exhibits B-9 and B-10, objected to as having been prepared only by one person, are admitted.

Exhibit B-11, objected to as marked ballot because the voter wrote the prefix "Dr." before "Laurel" in the space for President, is admitted.

Exhibit B-12 is not a marked ballot as alleged by the protestee. The name appearing in the third space for Senator is "Jose T. Muluo", which obviously refers to Jose, T. Nueno.

Protestant originally objected to 14 ballots of the protestee marked Exhibits F, F-1 to F-13. He has waived the objections to all these ballots, except Exhibit F-1. The fact that in Exhibit F-1 the voter wrote "Avelino" in the space for Vice-President does not constitute an identification mark. All these 14 ballots are admitted.

Three additional ballots, claimed by the protestee from the box for spoiled ballots and marked Exhibits B-13, B-14 and B-15, are rejected as spoiled, there being no evidence that they were deposited in said box by mistake.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	34	Uncontested	16
Admitted	12	Admitted	14
<hr/>		<hr/>	
Total	46	Total	30

Precinct 3:

According to the election return from this precinct, the protestee obtained 19 votes while the protestant obtained 187 votes. In the revision, the protestant claimed 186 votes while the protestee claimed the same number of votes.

The protestant objected to 6 ballots of the protestee marked Exhibits F-1 to F-6, but later withdrew his objections, except as to Exhibit F-6 in which the names "Elpidio Quirino" and "Juan Baes" are said to be heavily and differently written. We are satisfied that this ballot was prepared by a single hand and we are not prepared to say that the slight difference in the manner of writing the two names mentioned renders the ballot marked. All these ballots are admitted.

The protestee objects on various grounds to 78 ballots claimed by the protestant and marked Exhibits B-1 to B-78. We have examined these ballots with care and circumspection and we are convinced that they had been prepared in the manner required by law and that they are valid votes for the protestant. The ballots are admitted.

Two additional ballots, marked Exhibits F-7 and F-3, were originally claimed by the protestant but later renounced by him. The ballots are rejected because the name of the protestant appears in the wrong space.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	108	Uncontested	13
Admitted	78	Admitted	6
<hr/>		<hr/>	
Total	186	Total	19

Precinct 4:

According to the election return from this precinct, the protestant obtained 200 votes while the protestee obtained 31 votes. The protestant originally objected to all the ballots of the protestee marked Exhibits F-1 to F-31. The objection has been waived, except as to Exhibits F-5, F-11 and F-15. All these ballots are admitted, including those objected to. We fail to see any identification mark sufficient in law to annul Exhibits F-5, F-11 and F-15.

Protestee objects to 159 ballots of the protestant marked Exhibits B-1 to B-159. The various objections raised by the protestee against these ballots have received our utmost consideration and we have taken pains to examine each and every one of these ballots to determine their validity. We are satisfied that the objections are unwarranted, for which reason all these ballots are admitted.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	41	Uncontested	0
Admitted	159	Admitted	31
<hr/>		<hr/>	
Total	200	Total	31

Precinct 5:

According to the election return from this precinct, the protestee obtained 34 votes while the protestant obtained 179 votes.

Eight ballots claimed by the protestee and marked as Exhibits F, F-1 to F-7 were originally objected to by the protestant on the ground that they are marked, but the objection has been withdrawn and all these ballots are admitted.

The protestee objects on various grounds to 23 ballots of the protestant, marked Exhibits B, B-1 to B-22.

The objections are not well taken and all these ballots are admitted.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	156	Uncontested	26
Admitted	23	Admitted	8
<hr/>		<hr/>	
Total	179	Total	34

Precinct 6:

According to the election return from this precinct, the protestee obtained 14 votes while the protestant obtained 140 votes. No objection has been raised by the protestant against any of protestee's ballots.

The protestee objects to 10 ballots claimed by the protestant and marked Exhibits B, B-1 to B-9.

Exhibit B, objected to as illegible, is admitted. In the space for party voting, we read "Literal" which is *idem sonans* with Liberal.

Exhibits B-1, B-2, B-3 and B-4, are rejected. We are convinced that only one hand prepared all these ballots.

Exhibits B-5 to B-9 are admitted. Exhibit B-5 was not prepared by two persons and the rest are not marked as claimed by the protestee.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	130	Uncontested	14
Admitted	6	Admitted	0
<hr/>		<hr/>	
Total	136	Total	14

Precinct 7:

According to the election return from this precinct, the protestee obtained 27 votes while the protestant obtained 217 votes. In the revision, the protestant claimed 211 votes while the protestee claimed 27.

No objection has been raised against any of the ballots claimed by the protestee, but the latter objects to 17 ballots claimed by the protestant and marked Exhibits B, B-1 to B-16.

Exhibits B and B-1 are rejected, it appearing that they have been prepared by only one hand.

Exhibits B-2 to B-16, a group of 15 ballots, are admitted. The objection that Exhibits B-2 to B-14 had been prepared by two persons each, and that Exhibits B-15 and B-16 had been prepared by only one person, is not sustained by the appearance of the ballots themselves.

Two additional ballots are claimed by the protestant and marked Exhibits F and F-1.

In Exhibit F, the words "Quirino Party" are written in the space for party voting. Considering the fact that the Liberal Party was in November, 1949, headed by President Quirino, the intention of the voter to vote for all the candidates of that party is evident. We, therefore, admit this ballot in favor of the protestant.

Exhibit F-1 is rejected because the name of the protestant appears in the space for Vice-President.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	194	Uncontested	27
Admitted	16	Admitted	0
Total	210	Total	27

Precinct 8:

According to the election return from this precinct, the protestant obtained 124 votes, while the protestee obtained 8 votes. No objection is raised against the votes of the protestee. The latter, however, objects to 74 ballots claimed by the protestant and marked Exhibits B, B-1 to B-73.

Exhibits B, B-1 to B-12 and Exhibits B-13 and B-14 are rejected. A careful examination of these two groups of ballots has convinced us that each group had been prepared by only one hand.

Exhibits B-15 to B-73 are divided into several groups, and each group is alleged to have been prepared by a single hand. We have carefully examined each group and we are satisfied that all the ballots in question had been prepared by distinct hands. All these ballots are admitted.

Exhibit F, originally claimed by the protestant but later renounced by him is rejected, because his name is written in the space for President.

Protestee claims an additional ballot marked Exhibit B-74. In this ballot, the name of the protestee is written below his printed name in the column of official candidates of his party. This ballot is admitted.

Summarizing, we find the relative standing of the parties in this precinct, as follows:

FERNANDEZ		BAES	
Uncontested	50	Uncontested	8
Admitted	59	Admitted	1
Total	109	Total	9

Precinct 9:

According to the election return from this precinct, the protestee obtained 10 votes while the protestant obtained 144 votes.

Of protestee's ballots, only one was originally objected to and marked Exhibit F, but the objection has been withdrawn and this ballot is admitted.

The protestee objects to 9 ballots claimed by the protestant and marked Exhibits B, B-1 to B-8.

Exhibit B, objected to as marked ballot, is admitted.

Exhibit B-1, objected to as having been prepared by two persons, is admitted.

Exhibits B-2 and B-3, objected to as having been prepared by one person, and Exhibits B-4 and B-5, objected to on the same ground, are admitted.

Exhibits B-6 to B-8 are rejected as the handwriting therein clearly shows that they had been prepared by only one hand.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	135	Uncontested	9
Admitted	6	Admitted	1
<hr/>		<hr/>	
Total	141	Total	10

Precinct 10:

According to the election return and the revisors' classification, the protestee obtained 7 votes while the protestant obtained 119 votes in this precinct.

Protestee objects to 60 ballots claimed by the protestant and marked Exhibits B, B-1 to B-59. Of this group of 60 ballots, we have to reject, as we hereby reject, Exhibits B-14 and B-15. The close similarity in the handwriting appearing in these ballots shows that they were prepared by only one hand. Upon the other hand, the various objections interposed against Exhibits B, B-1 to B-13, and B-16 to B-59 are not supported by the contents and the appearance of the ballots themselves. These ballots are admitted.

Four ballots, marked Exhibits F, F-1 to F-3, and claimed by the protestee, were originally objected to by the protestant. The objection has been withdrawn and these ballots are admitted.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	59	Uncontested	3
Admitted	58	Admitted	4
<hr/>		<hr/>	
Total	117	Total	7

Precinct 11:

As we have announced in connection with Precinct 17 of Nagcarlan, we are reserving a separate discussion for these two precincts in the later part of this decision.

However, to avoid a break in our summary of the votes obtained by the parties, in accordance with our findings and conclusions, the same is made hereunder as follows:

FERNANDEZ			BAES		
Uncontested	68		Uncontested	4	
Admitted	33		Admitted	0	
Total	101		Total	4	

Precinct 12:

According to the election return from this precinct, the protestee obtained 19 votes while the protestant obtained 91 votes. In the revision, the protestee claimed 20 votes while the protestant claimed 93 votes. The protestant originally objected to 4 ballots of the protestee marked Exhibits F, F-1 to F-3. The objection, however, has been withdrawn, except as to Exhibit F. This ballot, Exhibit F, is rejected as a stray vote, it appearing that the name of the protestee is written in the space for President.

Exhibits F-1, F-2 and F-3, objected to as marked are admitted.

Protestee objects to 4 ballots of the protestant marked Exhibits B, B-1, B-2 and B-3.

Exhibit B is rejected. The word "Estaning" which appears in this ballot in the space for Representative, is insufficient to identify the protestant. (See paragraph 9, section 149, Revised Election Code.)

In Exhibit B-1, the voter wrote "Liberal" in the space for party voting, "Quirino" in the space for President, and "Pernandez" in the space for Vice-President. This ballot is rejected.

Exhibits B-2 and B-3, objected to as marked ballots, are admitted.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ			BAES		
Uncontested	89		Uncontested	16	
Admitted	2		Admitted	3	
Total	91		Total	19	

SUMMARY

MUNICIPALITY OF PAGSANJAN

Precinct Number	FERNANDEZ			BAES		
	Uncon- tested	Admit- ted	Total	Uncon- tested	Admit- ted	Total
1	113	15	128	34	6	40
2	34	12	46	16	14	30
3	108	78	186	13	6	19
4	41	159	200	0	31	31
5	156	23	179	26	8	34
6	130	6	136	14	0	14

7	194	16	210	27	0	27
8	50	59	109	8	1	9
9	135	6	141	9	1	10
10	59	58	117	3	4	7
11	68	33	101	4	0	4
12	89	2	91	16	3	19
Total	1,177	467	1,644	170	74	244

MUNICIPALITY OF CAVINTI

Precinct 4:

According to the election return from this precinct, the protestee obtained 27 votes while the protestant obtained 149 votes. In the revision, protestee claimed the same number of votes while the protestant claimed 148 votes.

Twelve ballots of the protestee were originally objected to by the protestant and marked Exhibits F-1 to F-12. The objection, however, has been withdrawn as to Exhibits F-1, F-2, F-4 to F-7, and F-9 to F-12, which are, therefore, admitted. The two other ballots, Exhibits F-3 and F-8, are also admitted, since the first of these was not prepared by two hands and the other is not marked, as alleged by the protestant.

The protestee objects on various grounds to 48 ballots claimed by the protestant and marked Exhibits B-1 to B-48. All these ballots are admitted, protestee's objection not being well taken.

Four ballots, marked Exhibits F-13 to F-16, the claim to which has been withdrawn by the protestant are rejected since the name of the protestant appear in the wrong spaces.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	100	Uncontested	15
Admitted	48	Admitted	12
Total	148	Total	27

Precinct 5:

According to the election return from this precinct, the protestee obtained 14 votes while the protestant obtained 150 votes.

Two ballots, claimed by the protestee, were originally objected to by the protestant and marked Exhibits F and F-1. The objection has been withdrawn as to both ballots, and they are admitted.

The protestee objects to 4 ballots of the protestant marked Exhibits B, B-1, B-2 and B-3. All these 4 ballots are admitted. The first too contain the poorly written

name of the protestant and the other two have not been prepared by two hands each, as alleged by the protestee.

The relative standing of the parties in this precinct is as follows:

FERNANDEZ			BAES		
Uncontested	146		Uncontested	12	
Admitted	4		Admitted	2	
<hr/>			<hr/>		
Total	150		Total	14	

SUMMARY

MUNICIPALITY OF CAVINTI

FERNANDEZ				BAES		
Precinct Number	Uncon- tested	Admit- ted	Total	Uncon- tested	Admit- ted	Total
4 -----	100	48	148	15	12	27
5 -----	146	4	150	12	2	14
<hr/>				<hr/>		
Total -----	246	52	298	27	14	41

MUNICIPALITY OF LUISIANA

Precinct 2:

According to the election return from this precinct, the protestee obtained 51 votes while the protestant obtained 101 votes. In the revision, the parties respectively claimed the same number of votes.

The protestant objects to 32 ballots claimed by the protestee and marked Exhibits F-1 to F-32. The objection has been withdrawn, except as to Exhibit F-13 which is alleged to be a marked ballot. What is alleged to be a distinguishing mark on this ballot is a small hole in the right middle portion thereof under the printed words "Nacionalista Party Official Candidates". There being no evidence showing that this hole was purposely made by the voter to identify his ballot, the same is admitted.

Protestee objects to 62 ballots claimed by the protestant, marked Exhibits B-1 to B-62. We reject Exhibits B-1 and B-2. It is quite obvious from the form of the handwriting in these exhibits that they have been prepared by a single hand.

Exhibits B-3 to B-62, however, are admitted as valid votes for the protestant. All the objections raised by the protestee have been carefully considered by the Tribunal, and found to be unwarranted.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ			BAES		
Uncontested	39		Uncontested	19	
Admitted	60		Admitted	32	
<hr/>			<hr/>		
Total	99		Total	51	

Precinct 4:

According to the election return from this precinct, the protestee obtained 13 votes while the protestant obtained 22 votes. After the revision of the ballots, the parties admitted the correctness of the election return. The protestant is, therefore, credited with 22 votes, while the protestee is credited with 13 votes.

SUMMARY
MUNICIPALITY OF LUISIANA

Precinct Number	FERNANDEZ			BAES		
	Uncon- tested	Admit- ted	Total	Uncon- tested	Admit- ted	Total
2	39	60	99	19	32	51
4	22	0	22	13	0	13
Total	61	60	121	32	32	64

MUNICIPALITY OF STA. MARIA

Precinct 1:

According to the election return from this precinct, the protestee obtained 51 votes while the protestant obtained 119 votes. In the revision, the protestee claimed the same number of votes while the protestant claimed 120 votes.

The protestee objects to 12 votes of the protestant marked Exhibits B, B-1 to B-11.

Exhibit B, objected to as marked ballot, is admitted. The presence of "Rosindo Rosario" on the 8th space for Senator does not constitute a distinguishing mark.

Exhibits B-1 to B-11 are admitted. "Boo", written in the space for Vice-President in Exhibit B-1 and "Claro Recto" in block letters in Exhibit B-2, are not distinguishing marks. "Estanislao" written in Exhibit B-3 makes it a valid vote for the protestant. So also is "Islao Fernandez" in Exhibit B-4. The word "Liberal" in the first space for Senator in Exhibit B-5, in which ballot "Estanislao Fernandez" is voted for Representative, does not render the ballot marked. "E. Prrandis" in Exhibit B-6 is *idem sonans* with the protestant's name.

Exhibits B-7, B-8 and B-9 to B-11, objected to on the ground that each group has been prepared by only one hand, show by the differences in the handwriting that each ballot had been prepared by a different person.

The protestant originally objected to 12 ballots of the protestee marked Exhibits F, F-1 to F-11. The objection has been waived as to Exhibits F, F-1 to F-3, and F-5 to F-9, which are hereby admitted.

Exhibit F-4, objected to on the ground that two persons intervened in its preparation, is admitted.

Exhibits F-10 and F-11, objected to on the ground that they had been prepared by one person, are also admitted.

Three additional ballots, marked Exhibits F-12, F-13 and F-14, were originally claimed by the protestant. The protestant has waived his claim to Exhibit F-13, which is hereby rejected.

Exhibit F-12 is admitted, the words appearing in the space for party voting being "Ribiral Parti Istas" being a valid vote for all the official candidate of the Liberal Party.

Exhibit F-14 is likewise admitted, the word appearing in the space for party voting being readable as "Liberal."

An additional ballot, marked Exhibit B-12 and claimed by the protestee, is rejected because his name was written therein in the first space for Senator.

Summarizing, we find the relative standing of the parties in this precinct as follows:

FERNANDEZ		BAES	
Uncontested	108	Uncontested	39
Admitted	14	Admitted	12
<hr/>		<hr/>	
Total	122	Total	51

Precinct 4:

The election return from this precinct shows that the protestee obtained 10 votes while the protestant obtained 128 votes. In the revision, the protestee claimed the same number of ballots while the protestant claimed 127 votes.

The protestee objects to 106 ballots of the protestant marked Exhibits B, B-1 to B-105. Except for 10 ballots alleged to have been prepared each by two hands, 3 ballots alleged to be marked, and 13 ballots which are said to be inadmissible because the names written do not sufficiently identify the protestant, all these have been divided by the protestee into several groups, each of which group is alleged to have been prepared by only one person. All these 106 ballots are admitted, the objections thereto not being well grounded, except Exhibits B and B-1, Exhibits B-6 and B-7, Exhibits B-13 and B-14, Exhibits B-27 and B-28, Exhibits B-47 and B-48 and Exhibits B-53 and B-54, which are hereby rejected because each group has been prepared by a single hand. A total of 94 ballots are, therefore, admitted.

The protestant originally objected to 7 ballots claimed by the protestee and marked Exhibits F, F-1 to F-6. The objection has been waived, except as to Exhibit F-5. This ballot is objected to as having been prepared by two persons. We find no merit in this objection. All these exhibits are, therefore, admitted.

Additional ballots marked Exhibits F-7 to F-23 were originally claimed by the protestant. Exhibit F-7, in which "Pernas" is voted for Representative, is admitted as a valid vote for the protestant under the rule of *idem sonans*.

Exhibits F-8 to F-22 are rejected because the name of the protestant does not appear in the proper space. Exhibit F-23 is also rejected. "E. Qurno", written in the space for party voting, refers to the candidate for President and not to Liberal Party.

Three additional ballots claimed by the protestee and marked Exhibits B-106, B-107 and B-108 are rejected as stray votes, the protestee being voted for in the space for Senator.

Summarizing, we find the relative standing of the parties in this precinct, as follows:

FERNANDEZ		BAES	
Uncontested	21	Uncontested	3
Admitted	95	Admitted	7
Total	116	Total	10

SUMMARY

MUNICIPALITY OF STA. MARIA

Precinct Number	FERNANDEZ			BAES		
	Uncon- tested	Admit- ted	Total	Uncon- tested	Admit- ted	Total
1	108	14	122	39	12	51
4	21	95	116	3	7	10
Total	129	109	238	42	19	61

THE VOTES IN PRECINCT 17 OF NAGCARLAN AND PRECINCT 11 OF PAGSANJAN

We shall now set forth our findings and conclusions with respect to the contested and uncontested ballots of the parties in Precinct No. 17 of Nagcarlan and Precinct No. 11 of Pagsanjan.

A.—*Precinct 17 of Nagcarlan:*

According to the election return from this precinct, the protestee obtained one vote while the protestant obtained 78 votes. Ricardo Montañano, the standard-bearer of the Nacionalista Party, was reported in the same return to have obtained 166 votes.

When the box for valid ballots from this precinct was opened by the revisors, the protestee claimed 84 ballots. This number is now made up of one ballot, marked Exhibit F-3, the validity of which is conceded by the protestant; 14 ballots, marked Exhibits F-1, F-2 and F-4 to F-15, on which "Liberal" is written in the space for party voting, followed by the name "Avelino"; of one ballot, now marked Exhibit F-45, on which "Avelino" is written in the space for President, "Francisco" in the space for Vice-President, "Alonto" in the space for Senator, and "Baes" in the space for Representative; and by 68 ballots,

now marked Exhibits F-16 to F-44, and F-46 to F-84, wherein "Nacionalista" is written in the space for party voting and "Baes" in the space for Representative.

Except for Exhibit F-3, the protestant objects to the counting of the foregoing ballots in favor of the protestee, on the ground that "Avelino" in the first group of 14 ballots, and "Baes" in Exhibit F-45 and in the last groups of 68 ballots, had subsequently been added by a hand different from that by which the questioned ballots were originally prepared. The protestant, therefore, claims in his favor the original number of votes with which he had been credited in the election return, that is, seventy eight (78).

The three members of the Board of Inspectors in this precinct, Pedro Monserrat, Angeles Llorente and Dominador Arceta, the latter being the Avelino Liberal Party representative in the board, testified in the hearing of this case that, when they counted the votes cast in this precinct on the evening of November 8, 1949, they saw and read only one ballot, which is now Exhibit F-3, on which the protestee was properly voted for Representative; that they never saw or read any ballot wherein "Liberal Avelino" was written in the space for party voting and "Baes" in the space for Representative. Neither did they see nor read "Baes" which now appears in the space for Representative in Exhibit F-45. They further testified that the votes that were read and adjudicated in favor of the protestant were counted from ballots on which only the word "Liberal" was written in the space for party voting; and that the votes with which they credited Ricardo Montañano were read from ballots on which only the word "Nacionalista" was written in the proper space for party voting. All these 3 inspectors identified the return they prepared and signed, which is now in evidence as Exhibit FF-218, as well as the tally sheets they used in counting of the ballots, which are now in evidence as Exhibits FF-121 and FF-121-A.

Upon protestant's motion, we allowed Mr. Edgar Bond, Chief of the Division of Questioned Documents of the National Bureau of Investigation, to examine the disputed ballots in this precinct as well as in precinct 11 of Pagsanjan, and to take photographs thereof. In the trial of this case, Mr. Bond identified the report he prepared on his findings and conclusions and this report is now in evidence as Exhibit K for the protestant. He testified that, in his opinion, "Avelino" in Exhibits F-1, F-2, F-4 to F-14 had been written by a hand different from the hand that originally wrote "Liberal" in the same exhibits; that whenever and wherever "Baes", "Juan Baes", or "Juan A. Baes" appears in Exhibits F-16 to F-84, the same had been written by a hand different from the hands that originally

wrote "Nacionalista" in the ballots. He further testified that when "Avelino" was added on Exhibits F, F-2 to F-15, some of the ballots on which the addition was made must have been on top of the others, as shown by the impressions left on the latter, and that the same observation is true with respect to those ballots on which the protestee's name had been added in the space for Representative.

Eleven voters who voted in this precinct and who identified Exhibits F-1, F-2, F-5, F-7, F-8, F-9, F-11, F-12, F-13, F-14 and F-15 as their respective ballots, after waiving their privilege of secrecy, testified that they only wrote "Liberal" in the space for party voting and disowned "Avelino" which now follows that word. Two voters who also voted in this precinct, after waiving the same privilege, identified Exhibits F-32 and F-33 as their ballots and testified that they wrote therein "Nacionalista" without writing the name of the protestee in the space for Representative.

An old locksmith, by the name of Vicente Yap, who had been engaged in that profession even before the turn of the century, was presented by the protestant, and he testified by actual demonstration that the 3 locks borne by the box for valid ballots in this precinct, as well as those of the box for valid ballots from Precinct 11 of Pagsanjan could be opened in one minute or two without the use of any key but by means of two pieces of small wire only. The purpose of his testimony evidently was to show that the disputed boxes could have been opened after the counting of the ballots had been finished and the election closed.

In view of all the evidence, we felt justified in concluding that the ballots in question were tampered with after they had been counted by the election inspectors. Considering, however, that sufficient and satisfactory evidence has been adduced as to the original contents of the disputed ballots, by means of which the Tribunal has been able to discover the true will of the voters by whom they were cast, we are not inclined to sustain protestant's contention that the election return from this precinct be deemed conclusive as to the number of votes obtained by the parties. The principle we have applied in connection with Precinct 9 of Lilio applies with equal force to this precinct where, notwithstanding the evidence of tampering of the ballots, it has yet been possible to discover the true popular will by their examination.

After a careful consideration of the disputed ballots, we are convinced that of the 78 votes claimed by the protestant, 76 should be, as they are hereby, adjudicated in his favor, namely: the 60 uncontested votes, plus Exhibits F-1, F-2, F-4, F-6 to F-8, F-10 to F-15, and Exhibits B, B-1 to B-3. Exhibits F-5 and F-9 are hereby admitted as valid votes for the protestee.

Precinct 11 of Pagsanjan:

According to the election return from this precinct, the protestee obtained 4 votes, while the protestant obtained 101 votes. The return shows that the other candidate, Ricardo Montañano, obtained 95 votes. When the box for valid ballots was opened, the protestee claimed an increase of 69 votes, or a total of 73 votes. Upon the other hand, protestant's votes appeared to have decreased from 101 to 84.

The foregoing changes in the standing of the parties arise from the fact that on 14 ballots, now marked Exhibits F-43 to F-51, F-55 to F-59, "Avelino" appears after the word "Liberal" in the space for party voting; that on 3 ballots, now marked Exhibits F-52, F-53 and F-54, "Baes" appears in the space for Representative while "Liberal" is written in the space for party voting; and that on 52 ballots, now marked Exhibits F, F-1 to F-42, and F-60 to F-68, "Baes" appears in the space for Representative and "Nacionalista" appears in the space for party voting.

Thirteen voters who voted in this precinct, after waiving their privilege of secrecy, identified Exhibits F-43, F-44, F-45, F-46, F-47, F-49, F-50, F-51, F-53, F-54, F-57, F-58 and F-59, as the ballots that they cast in the election, and testified that they wrote therein only "Liberal", disowning "Avelino" or "Baes" now appearing in the ballots.

Two other voters, after making the same waiver, identified Exhibits F-38 and F-41 as their ballots and testified that they wrote therein only "Nacionalista" in the space for party voting without writing "Baes" now appearing in the space for Representative.

Edgar Bond testified that the name "Avelino" in Exhibits F-43 and F-50, Exhibits F-44 and F-59, Exhibits F-46 and F-49, Exhibits F-45, F-47, F-48 and F-51, Exhibits F-55, F-56, F-57 and F-58, was written by one and the same hand. He also testified that "Baes", "Juan A. Baes", or "Juan Baes", now appearing in the 52 ballots where "Nacionalista" was written in the space for party voting had been written by a hand different from the hand that wrote "Nacionalista", and that the protestee's name in each of the following groups indicated by him in his report and in his testimony during the hearing, had been written by only one person: F-20, F-22, F-26, F-29 and F-30; Exhibits F-9, F-11 and F-12; Exhibits F-41, F-52, F-53, F-54, F-64, and F-65; Exhibits F-1, F-5, F-7, F-14, F-16 and F-18; Exhibits F-2, F-13 and F-15; Exhibits F-3, F-13 and F-15; Exhibits F, F-6, F-8 and F-10; Exhibits F-37, F-38, F-39 and F-68; Exhibits F-21, F-23, F-25, and F-31; Exhibits F-32, F-33, F-34 and F-35; Exhibits F-19, F-24, F-27 and F-28; Exhibits F-36, F-60, F-61, F-62, F-63, F-66 and F-67. He fur-

ther testified that similar to what had happened to the ballots in precinct 17 of Nagcarlan, several of the ballots wherein either "Avelino" or the name of the protestee had been written must have been on top of the others when such additions were made, as shown by the impressions produced on other ballots, discovered with the aid of a special kind of lens and now exhibited in photographs admitted as evidence in this case (Exhs. KR to KZ-1). Another important point in the testimony of this witness refers to his finding that the hand that wrote "Avelino" and the protestee's name on many of the ballots coming from Precinct 17 of Nagcarlan is the same hand that wrote the same names in ballots disputed in this precinct.

From all the evidence in the record, we are persuaded beyond doubt that the ballot box from this precinct, as well as its contents, had been violated and tampered with. We are, however, constrained to reject protestant's contention that the election return should prevail over the ballots themselves in determining the true result of the voting in this precinct. As has been seen, the disputed ballots have been preserved, and they have been examined by this Tribunal. Satisfactory evidence has been adduced in regard to their true contents before they were tampered with. There is, therefore, no reason for disregarding them and relying upon the corresponding election return.

After a careful examination of the 33 ballots claimed by both parties herein, and marked Exhibits B, B-1, to B-15, F-43 to F-59, and considering the evidence adduced in regard thereto, we hold that they should be, as they are hereby, adjudicated as valid votes in protestant's favor.

Summarizing, we find that in this precinct, the protestant obtained 68 uncontested votes, plus the 33 votes above referred to, or a total of 101 votes, while the protestee obtained 4 uncontested votes, without any contested votes.

THE TALA LEPROSARIUM VOTES

The protestant claims two ballots as having been cast in his favor by voters in the Tala Leprosarium under the jurisdiction of the Justice of the Peace of Calocan, Rizal, for the purposes of the election held on November 8, 1949. The corresponding ballot box has not been opened and the ballots have not been revised or examined by this Tribunal. But, according to the election return prepared by the Justice of the Peace of that municipality, in accordance with the Revised Election Code, two votes were validly cast in favor of the protestant while one vote was validly cast in favor of the protestee. Certified copies of the election return submitted by the Justice of the Peace to the Commission on Elections are now in the records as Exhibits A and B for the protestant. It appears, however,

that this return has not been received on time by the Municipal Treasurers of Loños and Sta. Cruz, to which municipalities the voters concerned belonged. For this reason, those two officials were not able to communicate the votes to the corresponding Boards of Inspectors which, under the law, were required to include them in the return they had to submit to the Provincial Treasurer. The result was that, when the Provincial Board of Canvassers of Laguna canvassed the votes cast for Representative, neither the two votes for the protestant nor the lone vote for the protestee was considered.

The protestee contends that the three votes in question should be disregarded since they had not been duly communicated to the Provincial Treasurer or been the object of canvass by the Provincial Board of Canvassers. We cannot accept this view. Section 15 of the Revised Election Code, in force on November 8, 1949 but repealed by Republic Act No. 599, provided as follows:

"Sec. 15. *Voting in the leprosaria.*—On the day of voting, said voters shall vote in the leprosarium before the justice of the peace, for which purposes said officer shall be at the leprosarium at seven o'clock in the morning of that day to receive the votes of the voters of the same, and at two o'clock in the afternoon or as soon as the voters who desire to vote have finished voting, shall make a canvass and prepare a statement of the result thereof, transmitting such result by telegraph at six o'clock in the evening of the day of the voting or as soon after the canvass as possible, to the municipal treasurer and to the Commission on Election, so that it may be included in the final computation of the votes and at the same time he shall send to said officers certified copies of the statement by rush and registered mail.

"The municipal treasurer shall immediately transmit a certified copy of the telegram to the proper election precinct of the municipality, and the board of inspectors thereof shall include in its canvass the votes set forth in the telegram, provided the same is received by the board before the result of the canvass is proclaimed.

"In the leprosaria where there are more than two hundred and fifty voters, the justice of the peace shall form as many polling places as may be necessary so that in each of them not more than two hundred and fifty voters may cast their votes, and shall designate a deputy to act as inspector in each polling place and to perform the duties herein entrusted to the justice of the peace."

It is worthy of note that under the second paragraph of this section, the board of inspectors concerned was required to include in its canvass the votes cast in the leprosarium and communicated to it by telegram, "Provided the same (telegram) is received by the board before the result of the canvass is proclaimed." This proviso evidently admits the possibility of the communication not being received by the board on time, in which case it would obviously be impossible for the election inspectors to include it in its canvass. But this non-inclusion should not permit the disenfranchisement of innocent voters who, by reason of sickness, were by law required to be confined in

a leprosarium and allowed to cast their votes there. The Tribunal therefore, believes that due regard should be given to these votes.

There being no question as to the correctness of the return prepared by the Justice of the Peace of Caloocan, Rizal, and confirmed by him at the hearing, and considering the legal presumption of regularity attending the acts of public officers in the performance of their duties, we resolve to credit the protestant with two votes and the protestee with one vote from the Tala Leprosarium.

THE PETITION FOR ANNULMENT OF ELECTION IN LILIO, PRECINCT 8 OF PAGSANJAN, AND PRECINCT 4 OF STA. MARIA.

Before we give a general summary of the total number of valid votes respectively obtained by the parties in the contested and uncontested precincts and municipalities of the Second Representative District of Laguna, it behooves us, in fairness and justice to the protestee, to pass upon his petition to annul the election in the entire municipality of Lilio, in Precinct 8 of Pagsanjan and in Precinct 4 of Sta. Maria, contained in his memorandum submitted in this case. While such a relief has not been prayed for in protestee's counter-protest, we had admitted evidence for both parties bearing upon that issue, in relation to allegations of irregularities contained in the counter-protest. We have, however, found the evidence on the point so weak and inconclusive that we fell absolutely unjustified in acceding to protestee's request. It is for this reason that, in passing upon the contested and uncontested ballots coming from Lilio and the aforesaid two precincts of Pagsanjan and Sta. Maria, we have assumed the validity of the election and considered its result only upon the basis of the ballots as we found them. We shall now proceed to consider the evidence relating to Lilio.

Municipality of Lilio:

Protestee's first ground for annulling the election in this municipality was the supposed registration of 69 minor voters, the majority of whom actually voted in the election. On this point, the evidence of record shows that 20 alleged minors were prosecuted in the Court of First Instance of Laguna for illegal registration and voting, but 6 of them have been acquitted, while 14 have been convicted but have appealed to the Court of Appeals.

A minor who succeeds in registering as a voter and who actually votes in an election subjects himself to criminal prosecution for illegal registration and voting under section 140 of the Election Code, but his ballot will have to be counted because, as we have already stated, in connection with Exhibit B-104 of precinct No. 1 of Lilio, under paragraph (f) of section 176 of the same Code, the registry

list, as finally corrected by the Board of Inspectors, is "conclusive in regard to the question as to who had the right to vote in said election." Be that as it may be, no sufficient evidence has been adduced identifying the ballots cast by the alleged minor voters. This proof lacking, it is impossible for the Tribunal to make a finding as to which ballots should be annulled, on the assumption that the votes cast by minors are invalid.

Protestee's second ground for annulment is said to be the voting more than once by several voters. It is true that the registry lists from certain precincts of this municipality show that several names are entered therein more than once and that each entry has been allotted a ballot, showing that the person bearing that name had voted. There is, however, evidence in the record showing that the several names that appear more than once in the aforesaid registry lists actually belonged to distinct and different persons who only happened to have the same name. This evidence adduced by the protestant has not been refuted or otherwise impeached.

The third ground for annulment is the alleged preparation of more than one ballot by the same voter. This objection is belied by an examination of the ballots themselves, and cannot possibly affect the overall result of the election.

The fourth ground for annulment is the alteration of the election returns from Precincts Nos. 2, 6, 7, 8 and 9 of this municipality. The fact that the alterations have taken place is admitted by the protestant. There is, however, no evidence identifying or tending to identify the culprits. Upon the other hand, the altered returns from said precincts have not been used by the Provincial Board of Canvassers of Laguna in its canvass of the votes from the disputed district. The Provincial Governor who acted as Chairman of that board in the canvass, testified at the hearing of this case that the altered returns which had been sent to the provincial treasurer were not taken into account, but in their place the board used the returns delivered and kept by the municipal treasurer of Lilio. It is, therefore, clear that the alterations now complained of have not in any way affected the canvassing of the votes by the Board of Canvassers, or the true results of the election in the precincts mentioned.

The fifth and last ground for annulment is the attempted destruction of the contents of the box for valid ballots from Precinct 9 of this municipality by pouring corrosive substance therein. We have already discussed this point in passing upon the ballots involved. Suffice it to repeat here that there is no evidence in the record identifying or tending to identify the author or authors of said crime.

Precinct 8 of Pagsanjan:

As his first ground for annulling the results of the election in this precinct, the protestee alleges that each of the three groups of ballots cast therein have been prepared by only one person. This contention is best met by an examination of the ballots themselves. Ballots prepared by one hand will have to be annulled, but the overall results of the election must remain, otherwise ballots legally prepared will be discarded and innocent voters disenfranchised.

Protestee's second ground for annulment is premised on the ground that 15 dead and absent persons had been registered as voters in this precinct and that ballots were actually cast in their behalf. The evidence adduced by the protestee on this point covers only about half that number. There seems to be no doubt that certain persons absent during the election now appear in the registry list of voters in this precinct to have voted therein. One of them is Dean Conrado Benitez, who was in Europe at the time. Considering, however, that the ballots cast by said dead and absent voters have not been identified, and that the said irregularity is not serious enough to warrant the disenfranchisement of the large majority of the voters who prepared and cast their ballots according to law, we would not be justified in annulling the election in this precinct.

Protestee's third ground for annulment consists in the testimony of several witnesses who declared that the secrecy of the ballot was violated, because some voters were allowed to fill in their ballots in the public view and even outside the voting booth. The Nacionalista inspector, however, denied that irregularities were committed in the polling place. According to him, no voter was allowed to prepare his ballot outside the voting booths. In the face of this conflict of the evidence on a pure question of fact, we do not believe the evidence on the alleged irregularities to be sufficient to warrant the annulment of the election.

Precinct 4 of Sta. Maria:

The protestee seeks the annulment of the election in this precinct on the ground that serious irregularities had been committed during the voting. The evidence adduced in this regard, however, is also indefinite and inconclusive. It is insisted by protestee that the secrecy of the ballot had been violated; that the voters were allowed to prepare their ballots in public view; that voters were permitted to remain inside the voting booths for longer time than was necessary; and that members of the armed forces intervened in the election in favor of the protestant. All these charges were, however, denied by the Chairman of the Board of Inspectors of this precinct. Miss Gregoria Andaya, a teacher in the public elementary school of Sta.

Maria who was the inspector representing the Avelino Liberal Party, testified that no such irregularities were committed or permitted in her polling place. We have not overlooked the testimony of two witnesses for the protestee who declared that after they had filled in their ballots the same were taken away by members of the armed forces on guard at the premises, and that they never knew what happened to their ballots thereafter. The election return and the revisors' report show, however, that the 173 ballots found in the white box tallied with the number of ballots used and the number of persons who voted. Whatever may be the case, the irregularity can hardly justify the annulment of the election in the entire precinct.

As we have stated in the case of *Ombra vs. Rasul*, Electoral Case No. 38, promulgated on May 5, 1951,

"The power to avoid or annul an election should be exercised with the greatest care and circumspection and only in extreme cases of fraud and under circumstances which demonstrate beyond doubt and to the fullest degree a fundamental and wanton disregard of the law, sufficient in extent to change the result, and which is so persistent and so grave that it is impossible to distinguish the legal from the illegal votes, or to arrive at any certain result whatsoever. (See *Laurel on Elections* [Manila, 1940], sec. 307, pp. 301-304; *Tolentino vs. Serrano* [1949], ETHR EL. Case No. 2, *Roque vs. Lava* [1948], ETHR EL. case No. 20, *Soliman vs. Tarus* [1949], ETHR EL. Case No. 13 (where the position of representative, first district of Pampanga, was declared vacant), and *Buyson vs. Yuson* [1949], ETHR EL. case No. 21, *see also*, *Gardiner vs. Romulo* [1914], 26 Phil., 521; *Garchitorena vs. Crescini* [1918], 39 Phil., 258, *Cailles vs. Gomez* [1921], Phil., 496, *Bulan vs. Gaffud* [1927], 49 Phil., 906, *Capalla vs. Tabiana* [1936], Off. Gaz., 1745 *Fernandez vs. Mendoza* [1932], 57 Phil., 687, and *Ignacio vs. Navarro* [1932], Phil., 1000.)"

Upon the foregoing considerations, we have sustained the validity of the election in the municipality of Lilio and the questioned precincts in Pagsanjan and Sta. Maria, and determined the validity of the votes cast therein on the basis of the ballots themselves.

Summary of Votes Obtained by Parties in Protested and Counter-Protested Precincts and Municipalities.

Municipality	Fernandez			Baes		
	Uncontested	Admitted	Total	Uncontested	Admitted	Total
Lumban	468	92	560	1,167	70	1,237
Loños	109	23	132	626	61	687
Mabitac	105	37	142	235	36	271
Famy	104	11	115	228	11	239
Siniloan	357	66	423	702	80	782
Pangil	76	28	99	757	75	832
Pakil	103	27	130	660	87	747
Sta. Cruz	600	203	803	2,659	279	2,938
Paete	67	37	104	1,692	207	1,899
Lilio	957	1,279	2,236	67	41	108
Rizal	412	290	702	15	15	30
Nagecarlan	1,120	334	1,454	53	11	64

Pagsanjan	1,177	467	1,644	170	74	244
Cavinti	246	52	298	27	14	41
Luisiana	61	60	121	32	32	64
Sta. Maria	129	109	238	42	19	61
Totals	6,091	3,110	9,201	9,132	1,112	10,244

RECAPITULATION

	FERNANDEZ	BAES
Uncontested	6,091	9,132
Admitted by Tribunal	3,110	1,112
Not revised Precincts	2,489	1,329
Tala Leprosarium	2	1
Grand Total	11,692	11,574
Grand total for Fernandez		11,692
Grand total for Baes		11,574
Plurality in favor of Fernandez		118

WHEREFORE, we hereby declare the protestant, Estanislao A. Fernandez, the duly elected Representative for the Second District of Laguna in the elections held on November 8, 1949, with a plurality of one hundred eighteen 118 votes, with the right to assume said office. The protestee is hereby unseated and ordered to pay to the protestant the costs and incidental expenses of the proceedings. So ordered.

Padilla, Reyes, Bautista Angelo, Medina, Crisologo, Soriano, Fornier, and Rilloraza, Jr., members, concur.

Protestant duly elected Representative and protestee unseated.

DECISIONS OF THE COURT OF APPEALS

[No. 10093-R. December 9, 1953]

CAMERA EXCHANGE, INC., plaintiff and appellant. **FIRST NATIONAL SURETY AND ASSURANCE CO., INC.,** surety-plaintiff and appellant, *vs.* **JOSE W. CARAMENG,** defendant and appellee.

1. **CORPORATION LAW; DIRECTOR; COMPENSATION; DIRECTOR NOT ENTITLED TO COMPENSATION IN THE ABSENCE OF EXPRESS PROVISION OR CONTRACT.**—It has been held that a director can not recover for his services as president (*Brampton Woolen Co. vs. Internal Rev. Com'r*, 45 Fed. [2d] 237) or as secretary (*Pfeiffer vs. Lansberg Brake Co.*, 44 Mo. A. 58; *Kleinschmidt vs. American Mining Co.*, 139 Pax., 785) or as treasurer (*Holder vs. Lafayette R. Co.*, 22 Am. Rep., 89), in the absence of express provision or contract for such compensation (*vs. Lingayen Gulf Electric Power Co., Inc., vs. Baltazar*, S. C. L-4824, June 30, 1953).
2. **ID.; ID.; ID.; ID.; KNOWLEDGE AND CONSENT OF MAJORITY OF DIRECTORS AND OF HOLDERS OF THE CAPITAL STOCK, IMMATERIAL.**—The view that the knowledge and consent of the majority of the Directors and of the holders of the capital stock validated the payment of salaries of defendant and his wife despite their membership in the board of directors of the plaintiff corporation, is unsound both in law and in fact. In law, because it is held "that no presumption of an agreement to pay arises from the mere rendition of the services, no matter how valuable they may be, and in the absence of express agreement, it is presumed that services rendered by an officer are performed gratuitously" (5 *Fletcher, Cyc. of Corporations*, p. 384), and "the rule denying officers of corporations compensation is not varied by the fact that they own nearly all of the stock of the corporation" (*Do.* p. 385). (*O'Leary vs. Seemann*, 76 Colo. 335, 232 Pac., 667; Note 5 *Fletcher*, 384-385).
3. **ID.; ID.; ID.; ESTOPPEL; ESTOPPEL PRESUPPOSES FULL KNOWLEDGE OF PERTINENT FACTS.**—Since the stockholders of the corporation have not been duly informed of the action of defendant and his wife in collecting the questioned salaries and disbursements, and a stockholders' meeting was not held prior to defendant's renouncing his controlling position in the corporate organization, no estoppel applies, since estoppel presupposes full knowledge of all pertinent facts.
4. **ID.; TRUST PROPERTY; OFFICERS AND DIRECTORS OF CORPORATION, THEIR FIDUCIARY RELATION IN RESPECT TO BUSINESS OR PROPERTY OF CORPORATION.**—Officers and directors in control of a corporation occupy a fiduciary relation towards the corporation and its stockholders, in respect to the business or property.

APPEAL from a judgment of the Court of First Instance of Manila. Encarnacion, *J.*

The facts are stated in the opinion of the court.

Quijano Alido & Azores for surety-plaintiff and appellant.
Amador E. Gomez for plaintiff and appellant Camera Exchange, Inc.
Pedro C. Mendiola for defendant and appellee.

REYES, J. B. L., J.

Appeal from a decision of the Court of First Instance of Manila (Demetrio B. Encarnacion, Judge) in case No. 11260 of said court, dismissing the complaint filed by Camera Exchange, Inc. against the former President, Treasurer, and General Manager Jose W. Carameng, for recovery of alleged debts and illegal disbursements; and holding said plaintiff and the First National Surety Assurance Co., Inc. liable to the defendant in the sum of ₱10,000, as damages for wrongful attachment, and for costs.

It is admitted by the parties that the Camera Exchange, Inc., appellant herein, is a duly organized corporation, constituted under the laws of the Philippines in June of 1945, with main office in Manila and an original capital stock of ₱20,000 of which defendant Jose W. Carameng initially subscribed ₱12,000 worth. In 1948, the stock was held by the following persons:

Jose W. Carameng	₱15,300.00
E. Mata (Mrs. Carameng)	500.00
Q. V. Gorospe	2,000.00
Jesus Salvador	1,500.00
T. Balbag	200.00
A. Beltran	500.00

On June 30 of 1949, a 100 per cent stock dividend increased the capitalization to ₱42,400 and thereafter, additional stockholders became interested in the corporation.

Jose W. Carameng, the controlling stockholder, from the beginning acted as President, Treasurer, and General Manager, and continued as such up to December 3, 1949. At first he held offices in Manila, but in April, 1948, he moved to Davao City where he has resided since during that period, defendant received and collected, as salaries and personal expenses, ₱44,701.28, and handled all corporate business practically alone.

In March of 1948, the corporation started a farming enterprise in Davao called the Bacaca Farm Project; the defendant, in his representative capacity, used ₱2,938.10 of the corporate funds to initiate it (Exhibits Q to Q-10, Exhibit E). On May 31, 1948, defendant Carameng transferred the project to himself and caused the corporate account regarding the same to be placed in his personal account.

Faced by actions filed by its creditors (Rec. of App., pp. 89-93), the Board of Directors of the corporation on March 6, 1950 passed a resolution declaring all unpaid subscriptions due and payable. Demand was made on defendant-appellee for payment of ₱3,000 as remaining balance of his original subscription, but defendant refused to pay, alleging that under date of December 6, 1949, Quirino V. Gorospe, then Secretary and Manager of the corporation, had assumed the obligation for valuable consideration. A few

days previously, on December 2, 1949, Gorospe also executed a document (Exhibit 10) in the following terms:

"For valuable consideration, I hereby agree to assume responsibility for payment of amounts standing to the debit as of this date, of . . .

J. W. Carameng	₱4,163.38
E. E. Mata	177.50

Total	₱4,340.88
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(Sgd.) Q. V. GOROSPE"

On June 5, 1950, the corporation filed action against defendant-appellee Jose W. Carameng, seeking recovery on four causes of action: (1) Of ₱24,349 in salaries of defendant and his wife and expenses not authorized by the Board of Directors, and which were "highly improper, grossly excessive, and prejudicial to the interests of the plaintiff corporation"; (2) of the Bacaca Farm Project, with an accounting of its operations since June, 1948; (3) of ₱3,000 as unpaid balance of the defendant's subscription to the corporation's capital stock; and (4) of ₱4,897 representing debit balance of defendant's personal account in plaintiffs books, opened "arbitrarily and without authority from plaintiff's Board of Directors."

Upon plaintiff's petition, a preliminary writ of attachment was issued and levied on defendant's house and lot, Ford car, bank account in the Davao Agency of the Philippine National Bank, and 20,000 hills of productive abaca on land leased by defendant (Rec. App., pp. 26-27). On September 23, 1950, defendant filed a bond for ₱10,000, and on October 18, 1950, he obtained a partial release of the attachment on his abaca, automobile, and bank account (Rec. App., pp. 33-37).

At the trial, plaintiff was permitted to submit evidence on a further cause of action that defendant obtained ₱3,011.15 from the corporate funds, allegedly for entertainment expenses, in connection with a projected branch managers' convention that plaintiff claimed to have never been held.

Defendant's answer, while admitting that the Board of Directors from its organization to December, 1949 never adopted any formal resolution concerning the compensation of or disbursements by the corporate officers, pleaded that (1) defendant had the authority of both directors and stockholders to fix the compensation of each officer, and the allowances for their expenses; (2) that he had "the authority and consent of the Board of Directors to undertake the Bacaca Farm Project," but later, realizing that the venture was *ultra vires*, he caused it to be transferred to his personal accounts; that as of June 30, 1948, the amount of ₱6,352.80 was due him and his wife from the corporation, and that he was not duty-bound to account for the farm's operations, it having ceased to be a corporate venture; (3) that

Quirino V. Gorospe had assumed payment of the amounts of action, and that the transfer of said obligations had claimed by the corporation in its third and fourth causes been acquiesced in by the corporation through its Board of Directors. Defendant prayed for the dismissal of the complaint and counterclaimed for P20,000 damages to his name and business caused by the wrongful issuance of the writ of attachment.

As previously stated, the Court below sustained the defenses *in toto*, and allowed defendant Carameng to recover P10,000 for expenses, attorney's fees, and damages. The Camera Exchange, Inc. and the surety, First National Surety Assurance Co., Inc., appealed to this court.

The following errors are assigned by the appellant corporation:

I. The lower court erred in not rendering judgment sentencing defendant to reimburse plaintiff the amount of P24,349 with interest, which represents the excessive withdrawals he paid to himself as president and treasurer of the plaintiff corporation, without authority of the board of directors, as claimed by plaintiff in its first cause of action.

II. The lower court erred in not declaring the Bacaca Farm Project to be an agricultural enterprise of the plaintiff, the same having been financed with funds of the latter, in not ordering defendant to render an accounting of his administration thereof; and in refusing to direct defendant to turn over and transfer to the plaintiff all the assets and properties pertaining to said project, in accordance with the second cause of action.

III. The lower court erred in not sentencing defendant to pay the plaintiff the amount of P3,000, with interest, in accordance with the third cause of action.

IV. The lower court erred in not sentencing defendant to pay the plaintiff the amount of P4,897, with interest, in accordance with the fourth cause of action.

V. The lower court erred in not ordering defendant to return to plaintiff the amount of P3,011.15, which he gave to himself as president, treasurer and general manager out of the funds of the plaintiff corporation, allegedly to defray expenses for a convention of employees, which convention never took place.

VI. The lower court erred in dismissing the plaintiff's complaint, and sentencing the plaintiff instead to pay P10,000 to defendant as damages.

VII. The lower court erred in holding the attachment bond for P10,000 filed by plaintiff as principal and the first national surety and assurance Co., Inc. as surety, to be directly liable for the payment of the said amount of P10,000 to defendant as damages.

VIII. The lower court erred in denying the motion for new trial and to set aside judgment.

Disregarding Errors VI and VIII as mere consequences of the others, we shall discuss each of those remaining, for the sake of clarity.

Error I. The issue is whether the defendant Jose W. Carameng was justified in collecting, for the twenty months of his stewardship (April 1, 1948 to December 3, 1949), the following amounts (Exhibits E, A to A-283):

Salary of defendant	P30,706.30
Salary of defendant's wife	6,000.00
House Rental	4,875.00
Other personal expenses:	
Water Bill	280.97
Electricity	701.68
Telephone	197.83
Entertainment Expense	365.00
Miscellaneous Expenses	1,574.56

The court below rejected the appellant corporation's claim that these expenses were excessive for an entity that only had a capital of P20,000, holding that—

"The defendant as President, Treasurer and General Manager of the plaintiff corporation was perfectly justified in making said disbursements in behalf of the corporation even without benefit of formal written resolutions of the Board of Directors." (Rec. App., p. 158.)

taking into account that the disbursements were made with the knowledge and consent of the majority of the Board of Directors and of the holders of the majority of the capital stock of the corporation.

We hold that the stand of the Court below can not be sustained, because it ignored the admitted fact that both defendant Carameng and his wife were members of the Board of Directors; and the well-established rule is that—

"A director or other fiduciary officer of a corporation presumptively serves without compensation. He is entitled to compensation for performing the usual and ordinary duties of his office *when and only when* there is a valid *express* agreement therefor; he can not recover on an implied contract." (14A C. J., sec. 1906) (Italics supplied.)

The same rule is stated in 13 Am. Jur., p. 975:

"1027. *Right to Recover for Services as Director or Officer.*—Corporate directorates and offices are usually filled by persons whose interest in the corporation, its stock, or in other incidental advantages may reasonably be deemed to be a motive for executing the duties of the office without compensation, and, as a general matter, there is a presumption to this effect which prevails until overcome by showing an express prearrangement of salary. It is accordingly the well-settled rule that the directors of a corporation cannot recover compensation for their services when rendered in the line of duty as such, whether co-nominee as directors, officers, members of committees, or otherwise, unless compensation for such services is expressly provided for or agreed upon in the charter, by-laws, or articles of incorporation, or by a resolution of the board of directors or stockholders before the services are rendered. This rule is applicable to a director who renders services as president, vice president, secretary, or treasurer of the corporation."

In accordance with this salutary principle, it has been held that a director can not recover for his services as president (Brampton Woolen Co. *vs.* Internal Rev. Com'r, 45 Fed. [2d] 327) or as secretary (Pfeiffer *vs.* Lansberk Brake Co., 44 No. A., 58; Kleinschmidt *vs.* American Mining

Co., 139 Pac., 705) or as treasurer *Nalder vs. Lafayette R. Co.*, 22 Am. Rep., 89), in the absence of express provision or contract for such compensation (*vs. Lingayen Gulf Electric Power Co., Inc. vs. Baltazar*, S. C. L-4824, June 30, 1953).

"From the employment of an ordinary servant, the law implies a contract to pay him. From the service of a director, the implication is that he serves gratuitously. The latter presumption prevails, in the absence of an understanding to the contrary, when directors are discharging the duties of other offices of the corporation to which they are chosen by the directors, such as those of president, secretary and treasurer." (*Brampton Woolen Co. vs. Internal Revenue Com'r*, 45 Fed. [26] 327, 330; *Pitagerald & Mellery Const. Co. vs. Fitzgerald*, 137 U. S. 98, 34 L. Ed. 608).

The view that the knowledge and consent of the majority of the Directors and of holders of the capital stock validated the payment of salaries to defendant Jose W. Carameng and his wife, E. Mata de Carameng, despite their membership in the board of directors of the plaintiff corporation, is unsound both in law and in fact. In law, because it is held "that no presumption of an agreement to pay arises from the mere rendition of the services, no matter how valuable they may be, and in the absence of express agreement, it is presumed that services rendered by an officer are performed gratuitously" (5 *Fletcher, Cyc. of Corporations*, p. 384), and "the rule denying officers of corporations compensation is not varied by the fact that they own nearly all of the stock of the corporation" (*Do.*, p. 385).

"Services by the president or other officer *outside* the regular duties of his office give rise to a right of action for *quantum meruit* when there is a request to him to do the work or its equivalent, otherwise not. If no resolution is passed, no request and no subsequent vote, there is no implied contract. If it could be done without a request, any officer could involve a company to any extent of his own free will." (*O'Leary vs. Seamann*, 76 Colo. 335, 232 Pac., 667; Note 5 *Fletcher*, 384-385).

And the decision of the court below is not supported by the facts because it ignored the relevant *datum* that the board of directors was composed only of defendant J. W. Carameng, his wife Epifania Mata, Q. V. Gorospe, Aguada Beltran, and Trinidad Balbag (v. Exhibit P); and of the five directors, the defendant and his wife were evidently disqualified to authorize or ratify payment of salaries in their favor (since they and their conjugal partnership would be financially benefited thereby), while Trinidad Balbag *was of Hawaii*, according to Carameng's own testimony (t. s. n., p. 121), and there is no proof whatever that he was informed of the matter or agreed thereto. There being only a minority of qualified directors (Gorospe and Beltran) who could vote in favor of the compensation of

Carameng and his wife, had the matter been formally submitted to a board meeting, no ratification in law ever took place. (19 C. J. S., p. 199, sec. 805).

"Officers and directors have no authority to fix their own compensation and, subject to the rule that voidable contracts may be ratified, any resolution depending upon the vote or improper influence of the party whose compensation is thereby fixed is voidable or void.

An officer is without authority to fix or increase his own salary. Directors are precluded from fixing, increasing, or voting compensation to themselves for other past or future services by them as directors or officers, unless they are expressly authorized to do so by the charter or by the stockholders, and it has been said to be of no importance that the by-laws of the corporation authorized them to elect of the officers of the corporation and fix their salaries. The director who claims compensation for his services, being disqualified from voting on the question, if he is necessary to make up a quorum of the board, or if his vote is necessary to the result, the resolution will be void or voidable; but where his vote is not necessary to the adoption of such a resolution, it will not necessarily be void, although he may have voted for it, or although he may have been present when the vote was taken." (19 C. J. S., pp. 199-200.)

Much is made of the fact that J. W. Carameng and Mrs. Carameng held 87 per cent of the capital stock; but it is well to note that any ratification must be by *all* the stockholders, and they must be shown to have had knowledge of the action of the directors and officers, in order to preclude an action to set it aside (14A. C. J., p. 145). In truth, considering that the defendant Carameng was not content with collecting salaries at ₱1,535.21 a month for himself and ₱500 a month for his wife as Vice-President (although she never had occasion to act for her husband), but further saddled the corporation with the rentals of his own residence in Davao, the bills for water, electricity, and telephone used therein by him and his family (Exhibits F, G, H, and I), his own driver's salaries, his firearms license fee (Exhibits A-162 A-205), and even the advertisements of his personal business as realtor (Exhibits A-26 and A-26a), his actions appear so grossly selfish as to amount to constructive fraud on the corporation and its minor stockholders, serious enough to warrant application of the New York rule that "there can be no ratification of payments to officers for services rendered without express or implied agreement that they should be paid, such act being a taking of funds from the treasury without authority" (Lewis vs. Matthews, 146 N. Y. Supp., 424). To the defendant-appellee apply the remarks of the Supreme Court of the Islands in Olsen vs Olsen, 48 Phil., 238, 242-243:

"Having, as he had, absolute and almost exclusive control over the function of the corporation and its funds by virtue of his triple capacity as president, treasurer and general manager, the defendant-appellant should have been more scrupulous in the application of the funds of said corporation to his own use. As a trustee of said corporation, it was his duty to see by all legal means possible that the

interests of the stockholders were protected, and should not abuse the extraordinary opportunity which his triple position offered him to dispose of the funds of the corporation. Ordinary delicacy required that in the disposition of the funds of the corporation for his personal use, he should be very careful, so as to do it in such a way as would be compatible with the interests of the stockholders and his fiduciary character. And let it not be said that he did every thing openly and with the security of his shares of stock, because as he could dispose of the funds of the corporation so he could dispose of his own shares and with greater freedom. And let it not also be said that other officers of the corporation, such as the vice-president, the secretary and other chiefs and employees, were doing the same thing, because that does not show but that his bad example had spread among his subordinates and all believed themselves with the same right as their chief to dispose of the funds of the corporation for their personal use, although it were merely by way of loan, without any security of whatever kind of course. The approval of his account at the first meeting of the stockholders cannot be considered as a justification of his conduct, nor does it remove every suspicion of bad faith, because the corporation was constituted exclusively by the defendant-appellant himself and his co-speculator, marker, and nothing else could be expected from it. As to the debt he owed to the corporation, Walter E. Olsen was in effect a lender and a borrower at the same time. The conduct of the defendant-appellant in connection with the funds of the corporation he represented was more than an irregularity; and while it is not sufficiently serious to constitute a criminal fraud, it is undoubtedly a fraud of a civil character, because it is an abuse of confidence to the damage of the corporation and its stockholders, and constitutes one of the grounds enumerated in section 424, in connection with section 412, of the Code of Civil Procedure for the issuance of a preliminary attachment, and the order of the Court of First Instance of Manila, denying the motion for the annulment of the injunction in question, is in accordance with law."

The same considerations apply to the defense of estoppel. The stockholders other than appellee do not appear to have been duly informed of the action of defendant and his wife in collecting the questioned salaries and disbursements, and there is no adequate proof that a stockholders' meeting was held prior to appellee Carameng's renouncing his controlling position in the corporate organization. Therefore, no estoppel applies, since estoppel presupposes full knowledge of all pertinent facts. The authorities cited by the appellee are not applicable for the reason that they refer to transactions between the corporation and third persons, and not to the trust relations between the corporation and its officers.

That the salaries collected are excessive appears manifest when it is considered that appellee also charged the corporation for expenses that would normally be covered by the salary. In conformity with the principles of fiduciary relationship imposed upon corporate directors, we find the salaries collected by appellee and his wife to be illegally received, and that the Court below erred in disallowing recovery thereof by the appellant corporation.

Error II. It is conceded that the Bacaca Farm Project in Davao was started by appellee Carameng with corporate funds (Exhibits Q to Q-10). He devoted some three months to its development, and thereafter caused it to be placed in his individual account, on the pretext that the operation of a farming project was *ultra vires* for the appellant corporation. Granting that this was true, the fact remains that the project was property of the corporation, and appellant, as its director and sole controller of its operations, could not simply appropriate corporate property without accounting for its operations or its value. Officers and directors in control of a corporation occupy a fiduciary relation towards the corporation and its stockholders, in respect to the business or property of the corporation, and can not deal with its property for their own personal benefit and advantage (13 Am. Jur., sec. 1002, p. 955; Adams *vs.* Mid West Chevrolet Corp., 175 A. L. R., 554). The selection of the best method to dispose of this property, if acquired *ultra vires*, belonged to the corporation as a distinct personality from that of the appellee; and the latter could not gratuitously convey it to himself unless the other directors, not under his control, voted in favor of the conveyance. No such vote, or equivalent corporate action, having been taken, the appellee should be deemed to hold the Bacaca project as a trustee, and should be compellable to account for the trust property.

Error III. This error concerns the balance of the original subscription of appellee Carameng to the stock of the appellant Camera Exchange, amounting to ₱3,000. The court below declared that the obligation had been assumed and should be paid by Q. V. Gorospe, pursuant to the term of the document Exhibit 1, reading as follows:

"Manila, Philippines
December 6, 1949

For valuable consideration I hereby transfer my right to remaining unpaid subscription in the amount of Three Thousand Pesos (₱3,000.00) to Camera Exchange Inc. stock to Q. V. Gorospe.

(Sgd.) J. W. CARAMENG

I hereby accept the above.

(Sgd.) Q. V. GOROSPE"

Since the unpaid subscription was a debt of the subscriber (J. W. Carameng) to the corporation, the debt could not be extinguished by substitution of a new debtor in lieu of the old in the absence of the creditor's consent thereto. The law (article 1205, old Civil Code, article 1293, new) specifically rules that "novation which consists in substituting a new debtor in the place of the original one, may be made even without the knowledge or against the will of the latter, *but not without the consent of the creditor.*" And while this consent may be implied from the creditor's acts, more

forbearance on his part does not cause a novation of the contract (Taal Motor Co. vs. Continental Insurance Co., 59 Phil., 819); neither should mere silence have the effect of consent, since waiver of a right is not presumed, *renuntiatio non preasumitur* (Mota vs. Serra, 47 Phil., 464).

"El consentimiento del acreedor, exigido para la novación que consiste en la contitución de deudores, ha de constar por modo *cierto y positivo*, y prestarse con el *deliberado preposito de exonerar* de sus obligaciones al *deudar primitivo* para hacerlas recaer en, toda su extensión sobre el deudor nuevo." (Sent. Trib. Supreme of Spain, June 22, 1911 and December 29, 1919). (Italics supplied.)

Nowhere in the record does it appear that the agreement between Gorospe and Carameng in December, 1949, was brought to the attention of the corporation, or that the latter ever assented thereto. What does appear is that in the following June, this action was brought against the original subscriber, appellee herein, to recover the balance of his subscription, thereby evidencing that the creditor corporation did not agree to the substitution of debtors. The lower Court's holding that "from the time that Gorospe assumed the said obligation, defendant Carameng ceased to be obligated thereon to the corporation" is contrary to the law on the subject.

While Gorospe was manager of the corporation when he assumed appellee's indebtedness, it nowhere appears that the corporation had authorized him to release debtors, or substitute old ones; and such inovations not being in the ordinary course of business, power to accept them can not be presumed in the absence of specific authority (Of. new Civil Code, Art. 1878, par. 2). Especially should this rule be true where Gorospe himself had an interest in the transaction and could not represent the coropration therein. As for Gorospe's letter, Exhibit 11 of the defendant, the statement that "the Lobrins wanted to know if I could pay some of the debit against my (Gorospe's) account. *They also mentioned* the P3,000 that I assumed of your subscription . . ." besides not evidencing a corporate act (the Lobrins being individual stockholders), it does not even show that the assumption by Gorospe of Carameng's subscription bore the Lobrins's approval.

Finally, there is evidence on record to prove that the transfer of the appellee's subscription to Gorospe was a mere subterfuge resorted to in order to facilitate the task of Gorospe in disposing of Carameng's stock to other persons. On April 9, 1950, four months after Gorospe had apparently assumed the unpaid subscription by executing Exhibit 1, appellee Carameng addressed to Gorospe the following telegram (Exhibit BE):

"RE LETTER PLEASE HAVE BUYERS STOCK FIRST SETTLE IN FULL TRUST ACCOUNTS OR CONSULT ATTORNEY LEGALITY TRANSFERRING TRUST OBLI-

GATIONS IF YOU ARE SATISFIED DETAILS TRANSACTION YOU ARE AUTHORIZED DISPOSE MINE PROVIDED SUBSCRIPTION DEFINITELY TRANSFERRED BUYER

CARAMENG"

It is apparent from it that Carameng still regarded the subscription as his own, and did not regard Gorospe as buyer, notwithstanding the terms of Exhibit 1.

Error IV. Concerning the indebtedness of ₱4,340.80 owned by the spouses Carameng to the corporation, and also assumed by Q. V. Gorospe (Exhibit 10), our ruling under the third assignment of error applies. The act of the Lobrins (Exhibit 1) is not a corporate act and does not prove acceptance by the corporation of the arrangement whereby the debts of the solvent officer are transferred to the insolvent one, to the prejudice of the corporation and in breach of the trust owned to it. The appellee in relying upon the conduct of "the Lobrins" as an act of the corporation, emphasizes his inability to distinguish the personality of the corporation and that of individual stockholders, that led him to treat the assets of plaintiff corporation as his own exclusive property during the period of his management, to the detriment of minority stockholders and creditors.

Error V. The appellant corporation also complains that the trial Court should have allowed it to recover on its additional cause of action ₱3,011.15, being a sum withdrawn by appellee to defray the expenses for a convention of employees on December 28, 1947, on the ground that such convention never took place. A supplemental pleading of this cause of action was waived at the trial (t. s. n., p. 170).

The evidence on this issue is contradictory, since the testimony of Gorospe that no convention was ever held is squarely contradicted by that of appellee to the effect that the convention was actually held on December 28, although it had at first been planned to postpone it indefinitely. The burden of proof being on appellant corporation to show by clear evidence this alleged misappropriation, we agree with the trial court that its claim on this count has not been satisfactorily established. It would have been easy to call employees of the corporation to corroborate Gorospe by testifying that such a convention was never held, but no confirmation exists of Gorospe's lone testimony. Moreover, Gorospe's testimony is contradicted by his own signature to the voucher covering the "expenses incurred at convention held Dec. 28, 1947" (Exhibit T). While Exh. T-4 dated December 23, 1947 purports to be a circular signed by the appellee Carameng to the effect that the convention "has been postponed until further notice", adequate proof is wanting that the circular was actually issued and the employees served with copies thereof. Said Exhibit T-4 is not incompatible with the testimony of appellee that it was not really issued,

because it was finally decided to proceed with the convention on the scheduled date. The doubt should be resolved in favor of appellee) hence we hold that in denying recovery of the sum claimed, the Court *a quo* did not commit error.

Error VII. The lower Court awarded the appellee Jose W. Carameng the sum of P10,000 by way of indemnity for damages and expenses, on the ground that "plaintiff knowingly filed the complaint without any reason except to harass and embarrass the defendant", and that "plaintiff's complaint is utterly devoid of any legal or moral basis". Our previous findings on the Errors I to IV assigned by appellant corporation sufficiently demonstrate that the quoted statements of the trial Judge are erroneous and unjustified, and contrary to the facts and the law governing the case; and for this reason, the award for damages must necessarily fail. Additionally, it is to be noted that the attachment levied at the instance of plaintiff corporation was discharged upon counterbond filed by the appellee, which in itself constitutes a waiver of any defects in the issuance of the writ (4 Am. Jur., p. 923; J. Uy Kimpang & Co. *vs.* Javier, 65 Phil., 170) ;and that under section 20 of the 59th Rule of Court, a claim for damages for illegal attachment is predicted and conditioned upon the rendition of a judgment favorable to the claimant (2 Moran, Rules of Court, p. 52). The findings of this court having precluded any such judgment for appellee, he is entitled to no award for damages.

In view of the foregoing, the decision appealed from is reversed, except as to the dismissal of appellant's supplemental or additional cause of action. Let judgment be entered against appellee, José W. Carameng, to pay appellant Camera Exchange, Inc. the following amounts: P36,706.30 on its first cause of action; P3,000 on its third cause of action; and P4,340.80 on its fourth cause of action; all such amounts to be paid with interest at the legal rate from the filing of the complaint. Said defendant-appellee José W. Carameng is further sentenced to render a complete accounting of the operations of the "Bacaca Farm Project", and to turn over and pay to Camera Exchange, Inc. any profits according therefrom.

Let the records be returned to the court of origin for further proceedings in accordance with this opinion. Costs against defendant-appellee.

So ordered.

Ocampo and Pecson, JJ., concur.

Judgment reversed except as to dismissal of appellant's supplemental cause of action and records returned to the court of origin with instructions.

[No. 8008-R. January 26, 1954]

LUCIA GOROSPE-SEBASTIAN, plaintiff and appellee, *vs.* SALVADOR SALAZAR and ANGELES GOROSPE-SALAZAR, defendants and appellants.

1. PARTITION; CONSENT; ERROR; TRANSLATION OF ARTICLE 1081, OLD CIVIL CODE ERRONEOUS.—Where there is conflict between the language of the original text of the Civil Code and of its official translation, the text of the original text should govern. This rule is applicable to Article 1081 of the old Civil Code, the official translation of which erroneous.
2. ID.; ID.; ID.; ARTICLE 1081, OLD CIVIL CODE CONSTRUED.—Article 1081 of the Old Civil Code contemplates a case of error in the status of the person of one of the contracting parties which amounts to error in the consent (18 Scaevola, Código Civil, 471. Such error may arise from pure mistake, or from misrepresentation or fraud (De Torres *vs.* De Torres, 28 Phil., 49).
3. CONTRACTS; FAILURE OF CONTRACT TO FULFILL REQUIREMENTS OF ARTICLE 1081 OF THE OLD CIVIL CODE, EFFECT OF.—Contracts of partition which fail to fulfill the requirements of article 1081 of the old Civil Code may be given effect either as donations or quit-claims if the intention of the parties to treat them as such is clearly deducible from the deeds and their attendant circumstances.

APPEAL from a judgment of the Court of First Instance of Manila. Ibañez, J.

The facts are stated in the opinion of the Court.

Delgado, Flores & Macapagal for defendants and appellants.

Rafael M. Morales and Sedfrey A. Ordoñez for plaintiff and appellee.

NATIVIDAD, J.:

The plaintiff brought this action to recover from the defendants the possession of a portion of the ground floor of house No. 617 Malabon Street, Manila, alleged to be illegally occupied by the latter, and rents therefor at the rate of ₱90 a month from the date of the filing of the complaint. The defendants admit being in possession of the portion of the house referred to in the complaint, but resist the action on the ground that they are owners of the undivided one-half of that house, and, consequently, in legal possession of the premises, in view of an extra-judicial partition executed by and between the plaintiff and defendant Angeles Gorospe-Salazar on February 15, 1941, and set up a counter-claim of ₱3,300 for damages. After trial, the lower court rendered judgment declaring null and void the extra-judicial partition of February 25, 1941 invoked by the defendants, and ordering the latter to vacate that portion of the house occupied by them and to pay the costs. From this judgment, the defendants appealed.

The material facts of this case are in the main not disputed. The plaintiff, Lucia Gorospe-Sebastian, and defendant Angeles Gorospe-Salazar are first cousins, the latter being a daughter of a brother of the former's father, Catalino Gorospe, who had taken her under his care since she was a child about eleven years old, and treated, reared and educated her as if she were his own child. Catalino Gorospe died on August 6, 1940, leaving the plaintiff as his only heir and a house built on a lot belonging to the latter at 617 Malabon Street, Manila. About seven months after Catalino Gorospe's death, or on February 25, 1941, the plaintiff and defendant Angeles Gorospe-Salazar executed before a notary public a deed of partition, whereby they declared that "as the only heirs of the deceased Catalino Gorospe" they "have naturally agreed to divide and partition" this house, adjudicating it to them "in equal shares *pro-indiviso*, one-half to Lucia Gorospe de Sebastian and the other half to Angeles Gorospe." Shortly after the execution of this deed, the plaintiff left for the province, leaving the house under the care of Angeles Gorospe-Salazar, who occupied a portion of the ground floor and rented the rest to other parties. With the rents of the rented portions of the house Angeles Gorospe-Salazar paid the taxes due thereon and the lot on which it is built and met the expenses for its preservation, submitting from time to time to the plaintiff an accounting of her administration.

On September 23, 1946, the plaintiff, alleging that she had discovered that defendant Angeles Gorospe-Salazar had no right to inherit from her deceased father, executed an affidavit before a notary public adjudicating to herself as the latter's sole heiress the ownership of the house in question, and filed this affidavit with the Register of Deeds for the City of Manila on October 15, 1946. This deed of adjudication was duly noted on the transfer certificate of title issued in the name of Lucia Gorospe, married to Juan M. Sebastian, covering the lot on which the house is built. And some time in the year 1947, plaintiff required defendants to vacate that portion of the house occupied by them. The latter refused to do so. Hence, this action.

The question for determination in this appeal may be reduced to the following propositions: First, whether the deed of extra-judicial partition of February 25, 1941, whereby the appellee and appellant Angeles Gorospe-Salazar adjudicated to themselves, share and share alike, the house in question is valid, as claimed by the appellant, or null and void, as claimed by the appellee; and Second, granting that such deed were null and void as deed of

partition, whether or not it could be considered as a donation or a quit-claim on the part of the appellee.

Appellants contended under the first proposition that the trial court erred in declaring the deed of extra-judicial partition of February 25, 1941 null and void under the provisions of Article 1081 of the old Civil Code; for, it is alleged, that that article contemplates cases in which either error, fraud, or misrepresentation attended the execution of the deeds, and in the instant case none of such conditions was present. It is claimed that the appellee could not allege ignorance of the fact that appellant Angeles Gorospe-Salazar, not being a child of Catalino Gorospe, could not inherit from the latter, for she is a person of some culture, being a graduate nurse, and had been living for a number of years in the City of Manila, and that the appellee executed the deed in question to carry out the wishes of her father, who on several occasions in life had expressed his desire that Angeles Gorospe-Salazar be given a share in the house, because he had received financial help from her.

We do not share appellants' view. We agree with counsel that the official translation of Article 1081 of the old Civil Code is erroneous, and that the text of the original which provides:

"La partición hecha con uno a quien se creyó heredero sin serlo, será nula"

should govern in this case. We likewise agree with counsel that the provision of law above quoted contemplates a case of error in the status of the person of one of the contracting parties which amounts to error in the consent (18 Scaevola, Código Civil, 471), and that this error in the consent may arise from pure error, or from misrepresentation or fraud (*Re Torres vs. De Torres*, 28 Phil., 49). An examination, however, of the evidence of record has convinced us that the case at bar falls under the sanction of that codal provision. On the one hand, the claim that the appellee knew the conditions and status of appellant Angeles Gorospe-Salazar and executed the deed in question in fulfillment of her father's wishes and because of the financial help rendered the latter by said appellant has not been clearly established. The statement of Angeles Gorospe-Salazar on this point is not corroborated by any other competent evidence. On the other, it appears that Angeles was the niece of Catalino Gorospe, and since the age of 11 she had been taken into the latter's custody, and treated, reared and educated by him as if she were his own child. So much was the love of Catalino Gorospe for her that he educated her until she was able to graduate from the Philippine Normal School and landed a job as a teacher. Appellee knew

also that it was Angeles who took care of his father in his old age, as she could not live with him by reason of her profession as a nurse, and that Angeles had given her father some financial help. The appellee did not have any training in law, and it does not appear that Attorney Mauren, who drafted the deed of partition in question, had advised her as to her rights. The use in the deed in question of the phrase "their father Catalino Gorospe and the word "heirs" is of no moment. Angeles Gorospe-Salazar having been treated by the deceased Catalino Gorospe and reared by him as his own child, there is nothing unusual in that the parties, in referring to the deceased, had stated that he was their father and that they were his heirs. Upon the facts of record, it cannot be charged that the appellee had full knowledge of the status and rights of Angeles Gorospe-Salazar when she entered into the agreement. The ruling, therefore, of the trial court that the deed of partition is null and void under Article 1081 of the old Civil Code is well-founded.

The appellants, however, contend under the second proposition that, even granting that the extra-judicial partition in question falls under the purview of article 1081 of the old Civil Code, nevertheless it should be given the effect of either a donation or a quit-claim on the part of the appellee. It is claimed that as the appellee knew that the appellant Angeles Gorospe-Salazar had placed at the disposal of the deceased Catalino Gorospe her salary as teacher, which must have enabled the deceased to repay the loan he contracted from Alejandro Roces with which he built the house in question, and that the deceased had on several occasions in his lifetime expressed his desire that Angeles Gorospe-Salazar should receive a share in the house, the appellee must have entered into the deed of partition in question in compliance with the expressed desire of her father, and, consequently, she should not be allowed to disown or withdraw from the agreement.

Again we cannot share appellants' view. We are not unmindful of the cases of *Seifort vs. Bachrach*, G. R. No. L-1379 and *Abragan vs. De Contenera*, 46 Phil., 213, invoked by the appellants, but we believe that they have no application to the instant case. Appellants' evidence on this point is not specific, and it is clear that the deed in question cannot be considered as a donation. Its language clearly expresses that it is a deed of partition. There is nothing therein which indicate that the appellee, in executing the same, intended to donate one-half of the house to Angeles Gorospe-Salazar. The deed can neither be considered as quit-claim. For, unlike the case of *Abragan vs. De Centenera*, *supra*, invoked by the appellants, in

which the daughter, as sole heir of her deceased father, executed a public document recognizing and ratifying a donation made by the latter in life, the records do not show that the appellee confirmed an act of her deceased father Catalino Gorospe, or with full knowledge of her rights and those of Angeles Gorospe conveyed to the latter one-half of the house. The doctrine laid down in that case, therefore, is not applicable to the instant case.

Having arrived at the above conclusions, we deem it unnecessary for us to discuss the other questions raised in this appeal, which, as stated elsewhere in this opinion, are merely corollary from the propositions discussed above. The deed of partition in question being null and void, it goes without saying that the motion at bar is warranted, and the appellants are not entitled to any award for the damages alleged to have been sustained by them by search of the institution thereof.

In view of the foregoing, we find that the judgment appealed from is in accordance with the law and the evidence of record. The same is, therefore, hereby affirmed, with the costs taxed against the appellants.

It is so ordered.

Diaz, Pres. J., and Paredes, J., concur.

Judgment affirmed.

[No. 1972-R. February 5, 1954]

MARCELO PATAYON, plaintiff and appellee, *vs.* ANATALIA ORTAL ET AL., defendants. MARTINIANA DAGAYDAY, defendant and appellant.

1. HUSBAND AND WIFE; OWNERSHIP OF PROPERTY ACQUIRED DURING MARRIAGE; PRESUMPTION IN FAVOR OF THE CONJUGAL PARTNERSHIP.—All acquisitions by onerous title during marriage are presumed to be for the conjugal partnership and at its expense (old Civil Code, article 1401 (1); new Civil Code, article 153 (1). Hence, although the instant *pacto de retro* sale was made to the wife alone, there being no clear and convincing proof that the consideration of the sale paid by both spouses was exclusive money of the wife, said purchase *a retro* vested ownership of the land in the conjugal partnership of the spouses.
2. ID.; ID.; ID.; HUSBAND'S RIGHT TO DISPOSE OF THE CONJUGAL PROPERTY.—The husband is the administrator of the conjugal partnership (Civil Code of 1889, article 1412; new Civil Code, article 165.) Consequently, a sale by him of conjugal property, in the absence of fraud upon the wife, is valid (old Civil Code, article 1413). On the other hand, if the wife, not having the representation of the partnership, disposes of the conjugal property without her husband's consent (article 1416, old Civil Code), her act is void.
3. ID.; ID.; ID.; ID.; NON-JUDICIAL SEPARATION OF SPOUSES, EFFECT UPON POWER OF HUSBAND OVER CONJUGAL PROPERTY.—The

fact that spouses are separated without judicial sanction (Civil Code of 1899, article 1432), does not diminish the power of the husband over the conjugal property.

APPEAL from a judgment of the Court of First Instance of Misamis Oriental. Belmonte, *J.*

The facts are stated in the opinion of the court.

Pedro D. Melendez for defendant and appellant.

Ernesto V. Chaves for plaintiff and appellee.

REYES, J. B. L., *J.*

Involved in this appeal is a parcel of land situated at Mojon, Mambayan, Balingasag, Misamis Oriental, described as follows:

"Bounded on the north, by Jesus Chaves; south, by Paulino Pahilan; east, provincial road; west, by Juan Buat, with an area of 4699½ square meters more or less and planted with 30 first class coconut trees and half portion of a parcel of land declared under Tax Doc. No. 49740. Assessed at P165.

and which Marcelo Patayon, appellee herein, sought to recover in the Court below from Anatalia Ortal and appellant Martiniana Dagayday.

It is unquestioned that the land in dispute is half of a parcel of land originally owned by defendant-appellant Martiniana Dagayday. Some time in 1937, said appellant sold it to Anatalia Ortal, then the wife of Juan Buat, for the sum of P200, allegedly with the right to repurchase the same within a period of 4 years. According to the testimony of Anatalia Ortal herself, the price was paid by both spouses to the vendor *a retro* (t.s.n. De la Peña, p. 27), and the tax declaration was transferred to the name of the husband Juan Buat (do., p. 28; Exhibit B).

The four years having elapsed in 1941 without any redemption being made, Juan Buat sold the portion in dispute to appellee, together with another property in Manaol, also litigated in the Court below but not involved in this appeal. This sale appears in a notarial document under date of February 25, 1942 (Exhibit A). At that time, Buat had separated from his wife Anatalia Ortal.

Due to the disturbed conditions created by war, the purchaser (Patayon) did not immediately take possession of the land purchased. When he tried to do so in 1944, his vendor Juan Buat had already died, and Patayon's attempts were blocked by appellant Martiniana Dagayday. The latter claimed in Court that, not being able to repurchase the land within the original four years, she "sold it to her (Anatalia Ortal) again by making another document or deed of sale, with right to repurchase within another four years" (t.s.n. Gaane, p. 2) on August 22, 1941 (Exhibit 1), and was able to finally repurchase it

in 1944, although the deed of resale was actually executed by Anatalia Ortal, Juan Buat's widow, on March 2, 1945 (Exhibit 4).

Patayon filed this action for recovery on April 25, 1944, and the Court of First Instance of Oriental Misamis rendered judgment after liberation holding that the new sale in 1941 to Anatalia Ortal (Exhibit 1) was ineffective for lack of authority of her husband, and ordered Martiniana Dagayday to surrender the land to plaintiff and to pay ₱600 damages, solidarily with Anatalia Ortal, her co-defendant. Dagayday appealed to this Court.

The judgment must be affirmed. The original purchase *a retro* made from Dagayday in 1937 vested ownership of the land in the conjugal partnership of Juan Buat and his wife Anatalia Ortal, notwithstanding that the sale was made to the wife alone, since all acquisitions by onerous title during marriage are presumed to be for the conjugal partnership and at its expense (old Civil Code, article 1401 (1); new Civil Code, article 153 (1) and there is here no clear and convincing proof that the ₱200 paid to Dagayday by both spouses was exclusive money of the wife.

It follows, as found by the court below, that upon expiration of the four-year redemption period, title to the land in question became consolidated in the conjugal partnership, of which Juan Buat was administrator, being the husband (Civil Code of 1889, article 1412; new Civil Code, article 165); and the wife, not having the representation of the partnership, could not dispose of the land without her husband's consent (old Civil Code, article 1416) while in 1942 the husband had that power. Consequently, the sale by Juan Buat to plaintiff-appellee Patayon, in the absence of showing of fraud upon the wife, was valid (old Civil Code, article 1413), while the renewal of the redemption term, and the subsequent resale by the wife Anatalia Ortal, were void, being made without the consent of her husband.

That Ortal and Juan Buat were living separately does not alter the case, because the separation was not judicially approved (Civil Code of 1889, article 1432) and did not diminish the power of the husband over the conjugal property.

The motion for new trial (Rec. App. pp. 24-26) was correctly rejected, its sole basis being that the original sale was one *a retro* and not an absolute sale. As we have shown, even on such assumption, the resale to appellant Dagayday by Anatalia Ortal alone is denuded of validity. Granting that, as alleged in the brief for appellant, the original sale provided that, if Dagayday could not repurchase the property, the vendees *a retro* would pay her an

additional P100, her right would be limited to the recovery of the supplementary amount.

The judgment appealed from is affirmed, with costs against appellant Martiniana Dagayday.

Ocampo and Pecson, JJ., concur.

Judgment affirmed with costs against appellant Dagayday.

[No. 4498-B. February 8, 1954]

MARCELO SALTARIN, plaintiff and appellee, *vs.* PASCUAL MANAOG and VENANCIA OBDULA, defendants and appellants, *vs.* NICASIO REVISTUAL MORANDANTE ET AL, third party defendants.

APPEAL; ASSIGNMENT OF ERRORS BY APPELLEE IN CIVIL CASE, WHO HAS NOT APPEALED, NOT COGNIZABLE.—In a civil case, unlike in an election case, the appellee, on appeal, could not assign errors, unless he appealed from the decision of the court *a quo*. Therefore, we cannot take cognizance of his assignment of errors much less his arguments in support thereof.

APPEAL from a judgment of the Court of First Instance of Camarines Sur. Surtida, *J.*

The facts are stated in the opinion of the court.

Tible, Tena & Borja for the defendants and appellants.

Jose M. Peñas, for plaintiff and appellee.

PEÑA, *J.*:

On March 6, 1929, several parcels of land were irrevocably donated to Nicasio Revistual by his father and mother. He had been in possession of these properties thru his overseers from 1929. On September 1, 1945, he sold one of those parcels to Marcelo Saltarin by way of absolute sale (Exhibit "B"). Hereunder is the description of the property conveyed—

"A parcel of land with the approximate area of 2 hectares and 50 ares, bounded on the North by Hermogena Sabroso, separated on this side by a trail; on the East by Marcelo Saltarin, separated on this side by Malobago, Anit, Tuba, and Bogma trees at the bank of Lalo River; on the South by Lalo River; and on the West by Lolo River and Juan Carrascaso, separated from his adjoining land on this side by Anonang, Bacan-Cayo, Malobago trees and Balete tree at the Bank of the Lalo River. This land is declared for taxation purposes in the name of Pascual Morandarto Under Tax No. 25539 valued at P580.00."

However, according to Pascual Manaog and Venancia Obdula they acquired the same property from Nicasio Revistual in 1934, claiming that the deed of sale executed in their favor was stolen.

Consequently, on December 3, 1945, Marcelo Saltarin filed a complaint in the Court of First Instance of Camarines

Sur, alleging that defendants, who have been occupying a portion of the aforementioned land under a croper agreement, refused to deliver the corresponding share which they used to deliver to the former; that defendants are now claiming all this land; and that notwithstanding plaintiff's repeated demands, defendants refused to deliver the land occupied by them, to the damage and prejudice of said plaintiff in the amount of not less than P75 annually. Plaintiff therefore, prayed—

1. That the defendants be ordered to vacate the land in question.
2. That defendants be further required to pay the sum of P75 a year until the land is actually delivered to the plaintiff.
3. That the plaintiff be declared the absolute owner of the land in question.
4. That defendants be ordered to pay the costs of this suit.
5. That he be awarded other remedies just and equitable in the premises.

To the foregoing complaint, defendants filed their answer containing special defenses and cross-claim.

On July 15, 1946, the defendants filed a motion to admit a third-party complaint against Nicasio Revistual Morandarte, Jose Revistual Morandarte, Aniana Revistual Morandarte and Silvestre Manaog, which third-party complaint was admitted on September 7, 1946, and the same was duly answered by the third-party defendants.

After due trial, the lower court rendered judgment on September 30, 1948, declaring the plaintiff owner of the land in question and ordering the defendants to deliver its possession to the plaintiff, to vacate the same and to pay said plaintiff by way of damages the amount of P79.20, and the costs of the proceedings.

Not satisfied with the aforesaid judgment, defendants appealed and now maintain that the lower court erred—

1. In not holding that Nicasio Revistual previously sold the property in question to the appellants in 1934.
2. In holding that Exhibit 1 is forgery and Exhibits 4 and 5 are of doubtful authenticity.
3. In holding that appellants occupied the land in question in 1933 merely as tenants of Nicasio Revistual.
4. In holding that plaintiff-appellee is the owner of the land in question.

Appellants pretend that they purchased the land in dispute from Nicasio Revistual, but, as the deed of sale executed in their favor was stolen by a certain Aniana, they were not able to present the same. To support their claim, they presented Exhibit "I", and ex-mayor Fasario Equizabal who declared that Pascual Manaog and Venancia Obdula came to him and reported the loss of their private document which was supposedly stolen by Aniana Barleta and Silvestre Manaog.

A minute comparison of the signature of Silvestre Manaog appearing on Exhibit "I" and those genuine ones

appearing on Exhibit "2" shows a degree of difference which is easily noticeable in the way letter "g" in "Manaog" is written on the latter Exhibit. Such dissimilarity, as correctly concluded by the trial court, reveals that the signature of Silvestre Manaog on Exhibit "1" is a forgery. For this reason, we cannot give any credence to it.

The testimony of Nazario Equinabal should also be considered with caution. In the first place, Nicasio Revistual flatly denied that he ever sold the land in question to the herein defendants, for which reason there could not be any document of sale executed by him in their favor. Consequently Aniana Barleta would have nothing to steal. In this connection, the Supreme Court has cautiously considered claims of loss of documents, thus—

"Loss of papers has been an ever ready refuge since the world war and defense based thereon should be scrutinized with care and suspicion, especially as in this case where satisfactory proof of the existence of the supposed papers had not been submitted. (*D. Leon vs. Dy Kiet*, Case No. 442-R, O. G. of August, 1947, p. 3144)

Examining the deed of absolute sale (Exhibit "B"), we could not find any flaw therein. It was duly acknowledged before a notary public, and that the consideration appears to have been paid by the purchaser to the seller. As between the oral evidence of appellants and the deed of absolute sale (Exhibit "B") relative to the conveyance and ownership of the land in dispute, we do not hesitate to give more weight to the latter. Accordingly, the ownership of the land in question was correctly adjudicated to the plaintiff.

As to the question of whether or not appellants occupied the land in dispute in 1943 as mere tenants of Nicasio Revistual, suffice it to say that it hinges on the credibility of witnesses. Appellants contend that Silvestre Manaog, who is a brother of Pascual, turned hostile to his own brother, because he is married to Aniana, sister of Nicasio Revistual who must defend the title of the plaintiff. On the contrary, we consider Silvestre Manaog under the circumstances as an impartial witness who testified only to what is true and just to his relatives by consanguinity and affinity. We do not believe that Silvestre would unjustly put down his brother in favor of plaintiff who happened to have purchased the land of his brother-in-law. Moreover, the relation of landlord and tenant has been recognized by the appellants, who prior to the present litigation, had been religiously delivering the share of their landlord, first to Nicasio Revistual and later on to plaintiff Marcelo Caltarin.

Appellee also made an assignment of errors in his brief. A review of the record does not however show that he appealed from the judgment now under consideration. In a civil case, unlike in an election case, the appellee, on appeal, could not assign errors, unless he appealed from

the decision of the court *a quo*. Therefore, we cannot take cognizance of his assignment of errors, much less his arguments in support thereof.

Wherefore, and no reversible error having been committed by the trial court, the judgment appealed from is hereby affirmed, with costs against appellants.

It is so ordered.

Felix and Roldan, JJ., concur.

Judgment affirmed with cost against appellant.

[No. 9558-R. February 11, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.*
ELIGIO CAMO, CRÍSPULO CAMO and JOSE D. CAMO,
defendants. JOSÉ D. CAMO, defendant and appellant.

[No. 9559-R. February 11, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.*
JOSE D. CAMO, defendant and appellant

[No. 9560-R. February 11, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.*
JOSE D. CAMO, BUENAVENTURA MANZANIDA and ELENO
DELICA, defendants. JOSE D. CAMO, defendant and
appellant.

[No. 9561-R. February 11, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.*
ELIGIO CAMO, JOSE D. CAMO, CRISPULO CAMO, BENITO
DELICA, MELCHOR LEGUA and CRISPIN ESCONDE,
defendants. JOSE D. CAMO, defendant and appellant.

CRIMINAL LAW; AMNESTY PROCLAMATION No. 75; CRIMES AGAINST CHASTITY NOT COVERED BY AMNESTY.—Supplementing Amnesty Proclamation No. 76, intended for the leaders and members of the association known as Hukbalahap and Pambansang Kapatiran ng Magbubukid (PKM), the then Secretary of Justice issued Circular No. 27 on June 29, 1948, stating that petitioners under the proclamation should be those accused of the crimes of rebellion, sedition, illegal association, assault upon, resistance and disobedience to persons in authority and/or illegal possession of firearms, committed before June 21, 1948, or any other crime that may be shown to have been committed merely as an incident to or in furtherance of the commission of the crimes of rebellion, sedition, illegal association or assault upon, resistance and disobedience to persons in authority; it being understood, however, that crimes against chastity shall in no case be deemed covered by amnesty.

APPEAL from a judgment of the Court of First Instance of Quezon. Santiago, J.

The facts are stated in the opinion of the court.

Jose Parentela for defendant and appellant.

Assistant Solicitor General Francisco Carreon and *Solicitor Augusto M. Luciano* for plaintiff and appellee.

PEÑA, J.:

In criminal case No. 9798 of the Court of First Instance of Quezon (CA-G. R. No. 9559-R), José D. Camo was accused of illegal possession of firearms, to which he pleaded guilty. Accordingly, the corresponding penalty was imposed upon him.

In criminal case Nos. 9800, 9805 and 9801 (CA-G. R. Nos. 9558-R, 9560-R and 9561-R) Eligio Camo, Crispulo Camo, José D. Camo, Buenaventura Manzanido, Eleno Delica, Benito Delica, Melchor Legua and Crispín Esconde were charged with murder and with the complex crime of kidnapping with murder. While these three cases were being tried, José D. Camo and his co-accused Crispulo Camo and Eligio Camo filed a motion to quash, invoking the benefits of Amnesty Proclamation No. 76 of the President of the Philippines.

At the joint hearing of the motion to quash, Eligio Camo in effect abandoned his aforesaid petition for not having presented any evidence in support thereof. Thus, hearing on the motion to quash proceeded with respect only to José and Crispulo Camo. Thereafter, the Amnesty Commission, thru Judge Vicente Santiago, denied the petition for amnesty on the ground that the crimes committed by the petitioners were perpetrated not in the furtherance of the HUK movement, but for purely personal reasons.

From the order of denial, José D. Camo and Crispulo Camo appealed to this Court which, for failure of their counsel to file their brief on time, dismissed their appeal by its resolution of July 20, 1953. However, considering the letter of defendant and appellant José D. Camo, this court by its resolution of September 15, 1953, admitted the type-written brief submitted by his counsel and reinstated the appeal with respect to him only.

Counsel maintains that the Amnesty Commission erred in denying the benefits of Amnesty Proclamation No. 76 to appellant José D. Camo.

Supplementing Amnesty Proclamation No. 76, intended for the leaders and members of the association known as HUKBALAHAP and PAMBANSANG KAPATIRAN NG MAGBUBUKID (PKM), the then Secretary of Justice issued Circular No. 27 on June 29, 1948, stating that petitioners under the proclamation should be those accused of the crimes of rebellion, sedition, illegal association, assault upon, resistance and disobedience to persons in authority and/or illegal possession of firearms, committed before June 21, 1948, or any other crimes that may be shown to have been committed merely as an incident to or in furtherance of the commission of the crimes of rebellion, sedition, illegal association, or assault upon, resistance and disobedience to persons in authority; it being understood,

however, that crimes against chasity shall in no case be deemed covered by the amnesty.

According to José D. Camo and his relative and co-accused Crispulo Camo they were affiliated since 1946 to the Hukbalahap organization in Sariaya, Quezon. To support their claim, they presented their membership certificates (Exhibits "3-José Camo" and "3-Crispulo Camo", pp. 92 and 107, criminal case No. 9800). They admitted having killed a certain Irineo Matundan, Mónico Reyes and Amado Mendoza, the victims in criminal cases Nos. 9800, 9805 and 9801 (CA-G. R. Nos. 9558-R, 9560-R and 9561-R). It is claimed by José and Crispulo that while they were serving as member of a supply unit of the Hukbalahap organization in Sariaya, Irineo Matundan had been telling his *barrio* mates not to give food to the Huks for they were lazy and good for nothing. Consequently, they reported the matter to their superior, one Major "Julie". So on June 8, 1947, José Camo, accompanied by Major "Julie", Crispulo Camo, Eligio Camo, Melchor Legua, Eulogio Delica and three others who were all armed with firearms, went to the house of Irineo Matundan who, according to them, resisted arrest and fired at the group, and for this reason, they shot him to death.

Similarly, José Camo and Crispulo Camo alleged that because aforementioned Amado Mendoza and Mónico Reyes had been sabotaging the activities of the Huks they were killed by them.

On the other hand, at the preliminary investigation of these four cases before the Justice of the Peace of Sariaya, Quezon, José D. Camo and his co-accused pleaded guilty to the charges against them, without questioning the genuineness and due execution of their written confessions. The record shows that after having been arrested José D. Camo and his co-accused Eulogio Delica, Eleno Delica, Melchor Legua, Crispulo Camo, Eligio Camo and Bienvenido Manzanido, executed their respective affidavits before Gregorio L. Gonzales, clerk of the Court of First Instance of Quezon, wherein they admitted participation in the killing of Irineo Matundan, Amado Mendoza and Mónico Reyes. According to Gonzales, when he testified before the Amnesty Commission, the affidavits which were written in Tagalog, were read to the affiants before they signed them in the presence of two witnesses and subscribed before him. As at the hearing of the motion to quash, the petitioners did not even attempt to impugn the due execution of the sworn confessions, the Amnesty Commission considered the affidavits on their face value which show that the killing of Irineo Matundan, Amado Mendoza and Mónico Reyes was generated by personal motives, with women as the root causes of all, and not in the furtherance of the Huk movement.

Chief of Police Andres Remo of Sariaya declared at the hearing before the Amnesty Commission that he knows all the Huks operating within his jurisdiction, and José D. Camo and Crispulo Camo are not among them.

After carefully considering the evidence of record, we agree with the trial court in denying to José D. Camo and Crispulo Camo the benefits of Amnesty Proclamation No. 76, because in committing the crimes in question they were motivated by personal reasons and not in furtherance of the Huk movement to which they now profess membership.

Wherefore, the order appealed from is hereby affirmed, and the records of criminal cases Nos. 9800, 9805 and 9801 (CA-G. R. Nos. 9558-R, 9560-R and 9561-R) remanded to the court of origin for their final disposition on the merits.

It is so ordered.

Felix and Rodas, JJ., concur.

Order affirmed, records of Criminal Cases Nos. 9800, 9805 and 9801 (CA-G. R. Nos. 9558-R, 9560-R and 9561-R) remanded to the court of origin for final disposition on the merits.

[Nos. 10636-R-10638-R. February 20, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.*
AVELINO Z. DALA, defendant and appellant

1. CRIMINAL LAW; EVIDENCE; POSSESSION AND USE OF FALSIFIED DOCUMENT; PRESUMPTION.—When a person has in his possession a falsified document and makes use of the same, the presumption arises that such person is the forger (*People vs. Lara*, 45 Phil., 754; *People vs. Cu Unjieng*, 61 Phil., 906; *People vs. Tupasi*, 36 Off. Gaz., 2086; and *People vs. Canta*, 40 Off. Gaz., 11th S. 15, p. 46).
2. *Id.*; *Id.*; PHOTOSTATIC COPIES, ADMISSIBILITY.—The lower court did not err in admitting the photostatic copies of the checks in question as evidence. The production of the original checks is not indispensable when it is not disputed that the offended parties did not sign the checks issued in their respective names; when the accused identified his own signatures appearing in the photostats; and there is evidence that the checks in question were correct photostatic copies of the originals.

APPEAL from a judgment of the Court of First Instance of Capiz. De Leon, *J.*

The facts are stated in the opinion of the court.

Artemio S. Arrieta and Abundio Z. Arrieta for defendant and appellant.

First Assistant Solicitor General Ruperto Kapunan, Jr. and *Assistant Solicitor General Lucas Lacson* for plaintiff and appellee.

DE LEON, J.:

In 3 separate informations filed in the Court of First Instance of Capiz, defendant Avelino Z. Dala was charged with the crime of falsification of public document by a private individual. After due trial, he was found guilty of falsification of private document by a private individual and, therefore, sentenced to suffer in each case an indeterminate penalty of from 5 months and 10 days of *arresto mayor* to 4 years, 2 months and 1 day of *prisión correccional*, to pay a fine of ₱2,000, to indemnify Liceria Nobleza in the sum of ₱269.90 in criminal case No. 351-K, Licerio Narral in the sum of ₱350 in criminal case No. 352-K, and Regino Niverca in the sum of ₱267.90 in criminal case No. 353-K, with subsidiary imprisonment not exceeding 1 year and 6 months in case of insolvency in the payment of the fine and indemnity, and to pay the costs.

Having heard that some claimants in the locality have already received their war damage checks, Liceria Nobleza, Licerio S. Narral and Regino Niverca inquired from the War Damage Commission about the status of their respective claims, and were informed that their said claims had been adjudicated and checks in the amounts of ₱269, ₱354 and ₱267.90, respectively, had been issued and sent to them at Libacao, Capiz. It was later on discovered that these checks were cashed by the defendant with Francisco Yu, manager of the Aklan Lumber Company, at Kalibo, Capiz, on two occasions. Because of the stop payment order, Francisco Yu refunded the amounts of the checks to the various parties to whom he had in turn negotiated them, and asked the defendant, orally and in writing, to repay him for the cash and lumber which he (appellant) received on account of the checks in question, but said appellant refused, so that he referred the matter to the office of the Provincial Fiscal. According to the complainants, when the case was being investigated by the Provincial Fiscal, the defendant had promised to pay them the value of their respective checks, which the said defendant never did.

In exculpation, appellant Avelino Z. Dala claimed that Dioscoro Palma, Acting Postmaster and principal clerk in the Municipal Treasurer's Office of Libacao, Capiz, gave the said three checks to him, which already contained the signatures purporting to be those of the complainants herein; and, that he agreed to cash the said checks only after he was assured by Palma that he (Palma) had already paid the claimants named in the checks. Federico Nahil took the witness stand in an endeavor to substantiate the above claim of the appellant.

In this appeal, the defendant contends that the lower court erred (1) in holding that he falsified the signatures of the complainants in the war damage checks in question; and

(2) in admitting the photostatic copies of said war damage checks as evidence.

When a person has in his possession a falsified document and makes use of the same, the presumption arises that such person is the forger (*People vs. Lara*, 45 Phil., 754; *People vs. Cu Unjieng*, 61 Phil., 906; *People vs. Tupasi*, 36 Off. Gaz., 2086; and *People vs. Canta*, 40 Off. Gaz., 11th S. 15 p. 46). There is no question that the signatures of the offended parties in the checks in question were forged. The accused-appellant admitted that he was the one who negotiated said checks with Francisco Yu. At the time of the commission of the crime, the defendant was a clerk in the office of the Municipal Treasurer of Libacao, Capiz, and, as such employee, had access to the Post Office of the locality which was then under the charge of the Municipal Treasurer. The pretense of the accused that it was Dioscoro Palma who gave the checks to him, and that he agreed to cash said checks because he was of the honest belief that the signatures appearing in the said checks were really those of the payees named therein, was correctly rejected by the court below. When Francisco Yu demanded of the appellant to repay him for the value of the checks, said appellant should have availed himself of the opportunity to explain his possession of the checks. The fact is, said appellant did not even bother to claim or receive the registered letter from Francisco Yu. We are also more inclined to believe the claim of the offended parties to the effect that it was the appellant who offered to pay the said complainants the value of their respective checks. We find nothing in the evidence of record to show any ulterior motive on the part of the offended parties in picking the accused, instead of Dioscoro Palma, as the person who offered the compromise.

The lower court did not err in admitting the photostatic copies of the checks in question as evidence. It would appear that the checks in question were in the custody and possession of three banks at the time of trial, and these banks sent only photostatic copies of the same to Francisco Yu. We believe, and so hold, that the production of the original checks is not indispensable in the cases at bar, for the reason that it is not disputed that the offended parties did not sign the checks issued in their respective names; the accused-appellant identified his own signatures appearing in the photostats; and there is evidence that the checks in question were correct photostatic copies of the originals negotiated to him by the appellant.

The Solicitor General maintains that the accused should have been convicted of the crime of falsification of public document by a private individual, as charged in the three informations. We agree with the contention of the Solici-

tor General. The checks in question are, at least, commercial documents, as checks are among those recognized by the Code of Commerce as commercial papers, and their falsifications are, therefore, punishable under article 172, paragraph 1, of the Revised Penal Code. However, the prescribed penalty is the same in either case and, contrary to the argument of appellant's counsel, the imprisonment and fine imposed upon their client in each of the cases is within the legal range. The subsidiary imprisonment which the accused should suffer in case of insolvency should not, however, exceed one (1) year, pursuant to article 39, paragraph 1, of the Code.

Modified with respect to the duration of the subsidiary imprisonment only, as determined above, the decision of the lower court is hereby affirmed in all other respects with costs against the appellant.

So ordered.

Reyes, Pres., J., and Dizon J., concur.

Judgment modified.

[No. 9771-R: February 27, 1954]

THE PEOPLE OF THE PHILIPPINES, plaintiff and appellee, *vs.*
FLORENCIO BORINAGA, defendant and appellant

CRIMINAL LAW AND PROCEDURE; SPEEDY TRIAL.--The right to a speedy trial is a relative one. A speedy trial is one conducted according to the law of criminal procedure and the rules and regulations (*Kalaw vs. Apostol*, 64 Phil., 852) which include, among others, the granting of postponements of trial which, while viewed with abhorrence and granted sparingly by the courts, can no less be excluded from our procedural system of dispensing justice than the dust from the air we breathe.

APPEAL from a judgment of the Court of First Instance of Cebu. *Debuque, J.*

The facts are stated in the opinion of the court.

Mamerto G. Estenzo for defendant and appellant.

First Assistant Solicitor General Ruperto Kapunan, Jr. and *Solicitor Antonio A. Torres* for plaintiff and appellee.

DE LEON, J.:

This is an appeal from a decision of the Court of First Instance of Cebu, finding appellant Florencio Borinaga guilty of homicide upon an information for murder, and sentencing him to undergo an indeterminate penalty of from 6 years and 1 day of *prisión mayor* to 12 years and 1 day of *reclusión temporal*, to indemnify the heirs of Florderico Adorco in the sum of P3,000,

without subsidiary imprisonment in case of insolvency, and to pay the costs.

The prosecution evidence is as follows: In the afternoon of December 6, 1950, in the seacoast barrio of San Juan, municipality of Pilar, Cebu, appellant Florencio Borinaga, the deceased Florderico Adorco, Agapito Istor, Magno Salinas, Candido Leviste and Ariston Impang were playing *hantoc*, a game of chance, under the house of one Alberto Garciano. The bets of the respective players were placed on the ground. When appellant Borinaga won and started to pick up all the money on the ground, he found that the same was short of ten centavos. He blamed Florderico Adorco for the shortage and a quarrel between them ensued. When they grappled, their companions ran away. Servando Adorco, 15-year old brother of Florderico, happened to pass by and saw the fight between the appellant and his brother. He saw the appellant drew his bolo (Exhibit A) and, with it, hacked Florderico several times. When he saw his brother fall, he ran home to tell his father, Mauro Adorco, who hastened to the scene of the fight. He found his son, Florderico, still breathing faintly but unable to talk. Florderico was lifted and carried to his own house, but he died on the way. According to the medical certificate (Exhibit B), Florderico sustained 2 mortal stab wounds in the abdomen, 4 wounds in the left arm, and 2 wounds on the left thigh.

The version of the defense is different. Appellant admits having killed Florderico Adorco, but pleads self-defense. The defense tried to show that the deceased was a quarrelsome person and had been accused once of less serious physical injuries and another of resistance to authority with less serious physical injuries. In the afternoon in question, it is claimed that when the deceased arrived at the beach, he approached Marcos Istor, Magno Salinas, Candido Leviste and Ariston Impang and, brandishing a bolo, challenged these persons to a fight. When the deceased saw appellant Borinaga, however, said deceased turned to him and challenged him (Borinaga) to a bolo fight. Appellant declined, saying, "Why should we fight when we do not have any misunderstanding?" but Adorco retorted, "My purpose is to have a killing." Thereupon, the deceased attacked the appellant. A second thrust from the deceased wounded the appellant on the right thigh. In the struggle that ensued, the bolo changed hands between the protagonists two times. The second time that the appellant got hold of the bolo, he had his back against the hull of a boat and the deceased was advancing upon him. As he could not retreat, appellant pushed the deceased and the latter

fell in a sitting position. Thereupon, he ran to the *polacion* and presented himself with the bolo (Exhibit A) to the local police authorities. Marcos Istor and Magno Salinas took the witness-stand in an endeavor to substantiate the version of the appellant.

In the first assignment of error, defense counsel claims that his client was denied the right to a speedy trial. This contention is without merit. The information in this case was filed in the Court of First Instance of Cebu on January 31, 1951. Trial began on April 11, 1951, and continued thereafter until August 2, 1951. The right to a speedy trial is a relative one. A speedy trial is one conducted according to the law of criminal procedure and the rules and regulations (*Kalaw vs. Apostol*, 64 Phil., 852) which include, among others, the granting of postponements of trial which, while viewed with adherence and granted sparingly by the courts, can no less be excluded from our procedural system of dispensing justice than the dust from the air we breathe. In the case at bar, if there was any delay in the trial of the case in the court below, the defense seems to have caused it. While the State rested its case on the second date of hearing, asking for only one postponement without the objection of the defense, the defense completed the reception of its evidence only after four postponements were granted upon motion of defense counsel.

Appellant's counsel also invokes, in aid of his argument that the right to a speedy trial has been violated in this case, section 129 of the Revised Administrative Code, as amended, requiring trial judges to render their decisions within 90 days from the submission of a given case. The said legal provision merely establishes a prerequisite before a judge's salary is paid and before his application for leave is granted. As aptly advanced by the Solicitor General, to which we agree, the failure of a trial judge to comply with said provision does not violate the right of the accused to speedy trial, nor does it affect the validity of the judgment.

Under the second and third assignments of error, it is insisted that appellant Borinaga killed the deceased in the manner testified to by said appellant and his witnesses. In dismissing the claim of the defense, the lower court concluded:

"After weighing carefully the evidence of the defense, the court holds that the incident could not, and did not take place according to the version given by the defendant. In the first place, the court cannot believe that Floderico, without any motive, without a previous altercation and without any provocation on the part of Florencio Borinaga, would approach the latter, brandish his bolo and attack Florencio. It is absolutely contrary to the ordinary course of human behaviour. It will be acceptable

if there is a showing that Florderico was drunk, or insane, or had a quarrel with Florencio days before. But there is no such showing. Nor is there evidence tending to show that a previous grudge existed between Florderico and Florencio. In the second place, if it were true that Florencio saw Florderico at a certain distance brandishing his bolo and challenging him and his companions to a fight, Florencio could easily have avoided an encounter with Florderico by leaving the place immediately or going up a nearby house. His companion were able to avoid the encounter. If Florencio had no weapon of any kind at his disposal at that time, the most prudent, proper course for him to take would have been to run away. He had plenty of time to avoid the fight. Why did he not do it? In the third place, if it were true that Florderico was in an angry mood and had a bolo in his hand, before Florencio could have wrested said bolo, Florderico could have inflicted one fatal wound, at least, upon Florencio during the course of the fight. Nevertheless, Florencio had only one wound on the thigh, and this is of slight nature. The wound of Florencio could not have been inflicted by Florderico who had no weapon at the time. In the fourth place, the court is convinced that the gambling game of 'hantak' was being played. The court does not believe the testimonies of the accused and his witnesses in denying the existence of this game that afternoon. In their effort to deny that they were playing 'hantak' they came to the extreme of testifying that they have never seen nor heard said game played. The Court is aware that the game of 'hantak' is common and very popular among the working classes in the Province of Cebu. It is played in the remotest barrios of this province. Even small boys play this gambling game, because it is very simple. To say that they have not seen nor even heard it played, does not deserve any credit."

We have gone carefully over the evidence of record, and we find no circumstance or fact of great weight or influence which might have been ignored, or the significance of which might have been misconstrued, by the court below. We fully concur with the above-quoted findings and observations of the lower court, and these findings and observations fully sustain the conviction of the appellant of the crime charged.

Wherefore, with the modification that the indemnity which the appellant should pay the heirs of Florderico Adorco be raised to ₱6,000, in consonance with the established policy of the Supreme Court in similar cases, the decision appealed from is hereby affirmed in all other respects, with costs against the appellant.

So ordered.

Reyes, Pres. J., and Dixon, J., concur.

Judgment modified.

LEGAL AND OFFICIAL NOTICES

Courts of First Instance

REPUBLIC OF THE PHILIPPINES
COURT OF FIRST INSTANCE OF ISABELA
FIRST JUDICIAL DISTRICT

NATURALIZATION CASE NO. 11.—*Petition of* BENARDO
GARCIA BULUSAN *for Philippine citizenship*

NOTICE OF HEARING

To the Honorable Solicitor General, Manila; the Provincial Fiscal, Ilagan, Isabela; Mr. Benardo Garcia Bulusan, Cabatuan, Isabela, and to all whom it may concern:

Whereas, a petition for Philippine citizenship, pursuant to the provisions of Commonwealth Act No. 473, as amended, has been filed by Bernardo Garcia Bulusan who alleges that he is single, was born in the municipality of Angadanan, Province of Isabela, Philippines, on August 20, 1932, and has never gone out of these islands since his birth; that his present address is Cabatuan, Isabela, having formerly resided in the municipality of Angadanan, Isabela, with his parents and then in the municipality of Naguilian, same province; that he is a citizen or subject of Spain, which is not at war with the Philippines and under whose laws Filipinos may become naturalized citizens or subjects thereof; that at present and since 1952 he has been employed by the Compañía General de Tabacos de Filipinas as assistant warehouseman at Cabatuan, Isabela, with corresponding monthly compensation; that he can speak and write English, Spanish, Ilocano and Tagalog languages; that he is entitled to the benefit of section 6 of Commonwealth Act No. 473 as amended by Commonwealth Act No. 535, which exempts him from submitting a declaration of intention for the reason that he was born in the Philippines and has received his primary and secondary education in public and private schools recognized by the Government of the Philippine Republic; that he believes in the principles underlying the Philippine Constitution, having conducted himself in a proper and irreproachable manner during the entire period of his residence in the Philippines in his relations with the constituted Government as well as with the community in which he is living, having mingled socially with the Filipinos and evinced a sincere desire to learn and embrace the customs, traditions and ideals of the Filipinos, and he possesses all the qualifications required by section 2, and none of the disqualifications under section 4, of Commonwealth Act No. 473; that he

is not opposed to organized government nor is he affiliated with any association or group of persons who uphold and teach doctrines opposing all organized government, he is not defending or teaching the necessity or propriety of violence, personal assault, or assassination for the success and predominance of man's ideas, he is not a polygamist or a believer in the practice of polygamy, he has not been convicted of any crime involving moral turpitude, and is not suffering from any incurable and contagious disease; that it is his intention in good faith to become a citizen of the Philippines and to renounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, particularly to Spain, of which he is, at this time, a citizen or subject, as well as to reside continuously in the Philippines from the date of the filing of his petition up to the time of his admission to the Philippine citizenship; and that he has not heretofore made petition for citizenship to any court. The petitioner cites Messrs. Teodulfo Rumbaua, of legal age, ex-mayor, Cabatuan, Isabela, and Dr. Leon Singson, of legal age, Naguilian, Isabela, who are both Filipino citizens, to appear and testify as his witnesses at the hearing of this petition to which he attached and made part thereof his alien certificate of registration issued by the Municipal Treasurer of Cabatuan, Isabela, for the Commissioner of Immigration.

Notice is hereby given that said petition will be heard before the Court of First Instance of Isabela, at Ilagan, Isabela, on the 15th day of December, 1954, at 8 o'clock in the morning. Any person or persons may appear before said court at the place and on the date and hour above designated and show cause why the petition should not be granted.

Witness the Hon. Manuel Arranz, judge of said court, this 31st day of March, 1954, at Ilagan, Isabela.

EUSTACE T. SOLDA
Clerk of Court

[4-6]

REPUBLIC OF THE PHILIPPINES
COURT OF FIRST INSTANCE OF BULACAN
FIFTH JUDICIAL DISTRICT

NATURALIZATION CASE NO. 13.—*In the matter of the petition of* CHANG (CHAN) KIM TIMOTEO VERGEL DE DIOS *to be admitted a citizen of the Philippines.*

NOTICE OF PETITION FOR PHILIPPINE CITIZENSHIP

To the Honorable Solicitor General, Manila; Mr. Enrique O. Chan, attorney for the petitioner